

APPROVED

## MINUTES

SELECTMEN'S MEETING  
@Memorial Library Community Room

January 7, 2010  
7:00p.m.

The regular meeting of the Board of Selectmen was called to order at 7:04p.m. by First Selectman Michael Freda. Also present were, Timothy M. Doheny, Second Selectman and Stephen A. Fontana, Third Selectman.

Mr. Freda introduced Selectmen Doheny and Fontana and wished everyone a happy and healthy New Year.

At this time, Mr. Freda asked if there were any public comments relative to the agenda.

Gary Amato, 27 Pool Road, requested that the Selectman's Overview of the meeting using a PowerPoint presentation be viewed after the second public comment for people who are older or not feeling well, and he feels it takes up a lot of time during the meeting. Although he feels it is good that Mr. Freda do the presentation, he feels if it was presented later in the meeting it would still provide people the ability to see it on TV and also the people who choose to stay at the end of the meeting may do so. Mr. Amato does feel it is of interest, but thinks it would be better for all if it was presented at the end.

Mr. Freda stated that he hoped that the information presented was of great interest. He asked the attendees, by a show of hands, to vote as to keep the Selectman's Overview in the beginning of the agenda or move it to the end. The majority voted to keep the presentation as is, at the beginning. Mr. Freda advised Mr. Amato that he would take his suggestion under advisement.

Mr. Freda proceeded with the second item on the agenda, the approval of the minutes of the regular Selectmen's Meeting of December 14<sup>th</sup>. Mr. Freda stated that prior to moving to approve the minutes he wished to state two items. Mr. Gerald Feinberg sent him an email and asked for a change to the meeting minutes, he advised that we have made that adjustment and that will be included. Also, he noted that shortly before the meeting it came to his attention that Mr. Leiserson presented the Board with proposed changes to the minutes that were published. The Board had not had the opportunity to review the changes submitted by Mr. Leiserson and Mr. Freda asked that the motion of approving the minutes be tabled until such time that the changes and adjustments can be reviewed. Agreed by both Mr. Doheny and Mr. Fontana.

## **Selectman's Overview:**

Mr. Freda proceeded with the presentation of the Selectman's Overview. He advised that the purpose of the 15-minute overview is to provide highlights of some of the significant issues that have transpired over the past 30 days since the previous Board of Selectmen's meeting on December 14<sup>th</sup>. He then noted that he would be happy to answer any questions during the public comment portion of the meeting.

### 1. Debt Restructure:

Mr. Freda then began with the first item on his presentation, noting that at the December 14<sup>th</sup> Meeting we talked about looking at how to restructure our debt in the Town of North Haven. We have been looking to see what we could refinance in terms of some of the bonds that we have. He advised that there is a resolution on the agenda for the board to vote to engage in this process. He explained that the opportunity does exist for us to refinance some of our debt and could save us about \$30,000 a year over a thirteen (13) year period. These are some rough numbers, but would represent about \$390,000.

Mr. Freda went on to explain that it appears as though the total debt structure on the books for North Haven is approximately \$61 million. When we look at these bonds and notes it appears that about \$5.2 million are callable, which means that we can renegotiate about \$5.2 million dollars, these are rough numbers. There is another \$8 million dollars worth of bonds on the books that we can also renegotiate, however, when we look at the cost to renegotiate those \$8 million dollars, it doesn't make any sense. We are going to look to move forward with a plan to renegotiate \$5.2 million dollars worth of our debt structure and that should save us about \$30,000 a year over thirteen (13) years. What we are trying to do here in North Haven is look at cost reductions behind the scenes, which Mr. Freda refers to as soft savings, which do not affect the level services to the residents of the Town of North Haven, and can be put back to the bottom line. Mr. Freda advised there will be a Resolution here this evening to move forward with that.

### 2. Personnel:

Regarding personnel, Mr. Freda asked to join him in congratulating Mr. Ed Swinkoski who was promoted to Mike Betz' position as Director of Finance for the Town of North Haven. He advised there would not be a replacement for the Controller position, which will generate a cost saving of approximately \$90,000 - \$100,000 back to the Town. Mr. Freda stated that he has a great deal of confidence in Mr. Swinkoski and he has demonstrated that over the past 30 days while he has been in office, that he can definitely do the job and over the course of the next 45 days we will be giving Ed some other goals and objectives to achieve. Mr. Freda repeated that he has a great deal of confidence in Mr. Swinkoski and has enjoyed working with him over the past month.

In terms of staffing in the Selectman's office, Mr. Freda introduced Ms. Valerie Goodkin, a North Haven resident who started this week on the job. She worked for 16 years for National Eyecare Consulting Company located in Hamden, CT and ran all the office operations for that company. Mr. Freda went on to say that she is very proficient in all the technological aspects of what we are looking to have done; Word, PowerPoint Excel and had a great deal of experience

working with the CEO of that company helping him develop PowerPoint presentations and national speaking engagements.

Mr. Freda noted that one of the things that Valerie brings is a tremendous amount of customer service. She is great with the public. One of the things Mr. Freda would like to do in North Haven is create more of a professional image and treat every citizen with a great deal of respect. He noted that it's been a pleasure to work with Valerie this past week.

Mr. Freda stated that the second position had over 40 applicants and the final round of interviews will be done next week. That second position has been downgraded, since Mr. Freda does not see a need to have two supervisory positions, and that will also save the Town some money.

### 3. Economic Development:

Mr. Freda stated that he has met with Mickey Rabina, and a concrete prefab construction company. They went on a plant tour and met with the CEO. There is negotiation taking place now to either buy the land or create some type of joint venture. This is not a final destination, but still in discussion.

Mr. Freda stated that he has also had meetings with a commercial real estate agency in town and looking to see if there are any opportunities to acquire land or rent space to help populate some of the vacancies we have here in North Haven. There are several parcels of land that have been looked at and they range between 5 – 13 acres and is another emerging opportunity.

### 4. Grand List Members:

Mr. Freda stated that he had a good meeting with Anthem Blue Cross, Dave Fusco, their CEO and Jim Auger. The future for Anthem Blue Cross is still in a conversion stage with Quinnipiac coming more into North Haven.

Mr. Freda also stated that he met with the CEO of The Connecticut Container Company to learn more about their business model. The objective is to have the First Selectman of North Haven start developing relationships with the Town grand list members.

Mr. Freda also met with F&F Mechanical, and with the Wharton Brook Industrial Group which represents a number of business in that business park, and, has a meeting scheduled for January 19<sup>th</sup>.

Also met with two commercial real estate agencies, and has asked for a list of their vacant buildings with the objective of working collaboratively with them to show their buildings and present North Haven.

### 4. United States Postal Service:

Mr. Freda noted that we have two postal representatives present. He reported at the last meeting that he has previously met with the Postal Service to discuss moving the post office from its current location on Washington Avenue. He stated that Mr. Joseph Mulvey, a Real Estate Specialist with the Post Office and Cathy, the Postmaster, would be speaking later in the meeting to discuss ideas

on what to do with regard to the post office.

5. Legal Overview:

Mr. Freda then addressed the legal issues and advised that the open cases are being turned over to our new town attorney, Ryan & Ryan. He noted that the objective for this administration for next fiscal year is to stay within the legal budget, which is approximately \$200,000 a year.

6. Insurance Rebate/Debt Reduction:

Mr. Freda stated that in terms of the deficit that the town is working on, right now the total number is \$1,446,000 for the back half of this year. He went on to share some good news that he has been working with a previous insurance carrier, who three or four years ago when the town used The Hartford, there was a claims analysis done in arrears. This means that he is anticipating a significant rebate, and when it is received it will be applied against the deficit. He provided some rough numbers indicating that the rebate could be anywhere from \$500,000 - \$600,000, and if we do in fact get that, it would be immediately be applied back to the deficit. Mr. Freda felt that in better times it may have been nice to put the money into a surplus fund or town savings account, but he sees this as the taxpayer's money and it will be applied to the \$1,466,000 deficit.

7. CIRMA:

Mr. Freda advised that he spent time with CIRMA this past week and he sees possible cost savings in the future. If we look at our premium with CIRMA, which now we are in the third year of a three year term with them, technically this will have to go out to bid sometime this year, but in the interim what we are looking at is combing all the different insurances we have with CIRMA at roughly \$1.5 million, which is a rough figure on what we pay. He noted that CIRMA offers North Haven a tremendous amount of resources in terms of training, development, awareness, workmen's comp, and preventative measures. Therefore, if North Haven stays on with CIRMA he would like to utilize the many resources they have to work with our people in North Haven and our department heads, and minimize the claims moving forward in the future by a greater level of education and awareness. This may help to reduce the premium amount in future years. He said that it has already started and several of our departments are already utilizing CIRMA from a resource standpoint. He wants to maximize our exposure with the intention of reducing the \$1.5 million to \$1 million annually, that represents a \$500,000 savings that drops right back to the bottom line.

8. Deficit Mitigation Program:

Mr. Freda stated that there was a Department Head Meeting and is pleased to announced that they are all working collaboratively together on a deficit mitigation program, designed to balance the budget by June 30<sup>th</sup>. He will provide a progress update at the next Board of Finance meeting later in the month.

That concluded Mr. Freda's PowerPoint presentation.

There was no Correspondence to report on.

Mr. Freda asked to briefly suspend the order of the agenda in fairness to the guests from the US Postal Service, to allow them to present at this time. Selectmen Doheny and Fontana agreed.

At this time Mr. Freda introduced Mr. Joseph Mulvey, Real Estate Specialist with the United States Postal Service, who introduced himself and his colleagues, Tom Bresnahan out of the Connecticut District Office, and the local Postmaster, Cathy Zief.

Mr. Mulvey explained that the Postal Office, as part of a national effort, regularly evaluates its facilities. Advances to mail processing techniques, alternate access, declining mail volumes and route consolidations have impacted the amount of building space that is needed to efficiently run their business.

There are two postal facilities located in North Haven. One (referred to as their main post office) being located at 74 Washington Avenue that houses their customer related services (retail operation), and a second facility located at 10 Middletown Avenue housing carrier and delivery operations. Both facilities have excess space. They are both privately owned and their leases will be expiring, and they would like to consider combing both operations into one properly sized facility located in the central area of town. Mr. Mulvey went on to explain that typically they would look at expansion first as an alternative, but they do not believe there is sufficient land at the 74 Washington Avenue property to accommodate a combined operation. The plan is then to seek alternate existing vacant space, as opposed to new construction. Their preferred area is along Washington Avenue. He invites public comments will wait 15 days before proceeding. After reviewing any public comments he will notify the First Selectman and the Board of their decision as to how they will proceed and will post the notification in the lobby of the post office. Anyone objecting to that decision will have a 30 day right to appeal. He looks forward to working in partnership with the community and finding a new location to better serve the community and Postal Service.

Mr. Freda then stated that it will ultimately be Mr. Mulvey's decision along with the United States Postal Service. We have presented them with three options; northern Washington Avenue, the old Walgreens facility located at the end of the Stop and Shop Plaza and before the Luciani Plaza , and the Plaza located near Town Fair Tire and Crickets. He is encouraging anyone in town to call him or Joe with any vacancies. Mr. Freda mentioned that an original thought was that the Post Office would consider Northern Washington Avenue and that would help jump start some economic development in that area, but he did hear from some citizens that expressed some concern that moving a mile or two up the road may be too out of the way for some of our citizens who enjoy it in the central business district. Mr. Freda would consider either way but wants to make sure that we consider all opportunities and recognized that ultimately it is the Post Office's decision.

Mr. Freda entertained a motion to open to the floor for discussion with Mr. Mulvey. Voted: Freda – yes, Doheny – yes, Fontana – yes

Ann DeMatteo, New Haven Register, asked to clarify if the decision would be made

in 15 days. Mr. Mulvey replied that they are presenting at this meeting and that their preferred area would be in the central district along Washington Avenue, and if there are any public comments relative to that, they would be looking to receive those comments over the next 15 day time period. Mr. Mulvey explained that their process would be to go to public advertisement to search for space, but they would not do that for at least 45 to 60 days from tonight.

Gary Amato, 27 Pool Road, asked if there would be any cost to the town. Mr. Mulvey replied no.

Florence Sinow, 18 Maple Avenue, asked if the Post Office would be in a leased building? Mr. Mulvey replied that the first choice would be to go into privately owned property with a leasing arrangement.

Ms. Sletten, then spoke that it would be ideal to keep the location near the center of town. Mrs. Stankowicz stated that it may be a cost saving idea to have it located in a shopping center, which would be convenient to be able to do your shopping and handle your postal needs at the same time.

Gary Amato asked why wouldn't the Post Office make a deal to stay at its present location on Washington Avenue and utilize the property of the adjacent bank. He feels it is a landmark in town.

Mr. Mulvey noted that there is excess space in both locations and they want to right size their facility for efficiency and less cost to the Postal Service. They want to combine both locations and that they do not feel that the land area at 74 Washington Avenue can accommodate that.

Mr. Freda explained that years ago the retail and trucking aspects of the Postal Service were in one location on Washington Avenue and some time ago the Postal Service separated trucking from retail and now it makes sense for them to combine them back in a better suited facility.

Ann DeMatteo, New Haven Register, inquired to the time frame. Mr. Mulvey explained that the two leases will be expiring within two year time and they are committed to getting something done within that time frame, but they are not committed to waiting for the actual expiration of the leases and would like to move forward at this time. Therefore, after a comment period they would make a decision and after an appeal period, should anyone object to that decision then they would go to advertisement – being about a 45-60 day time frame

Mr. Gambardella suggested that the Broadway area be considered. Mr. Freda replied that there is a requirement of 100 parking spaces.

Mr. Katz, stated that the area is getting congested with traffic and if you add trucks to that it will difficult traveling from Rt. 22 to 91. Bob Johnson, supported Mr. Katz. does not support those opinions. Ms. Sletten inquired if in fact the Middletown Carrier operations will be combined, and how many employees, Mr. Mulvey replied about 40.

Mrs. Feinberg, how much space do they actually need? Mr. Mulvey responded

6,500 net interior square feet and 100 parking spaces equating approximately to an acre and a half of land but that does not take into account any zoning requirements in North Haven, and it would have to meet those.

Mr. Johnson asked how many trucks once consolidated, and Mr. Mulvey replied 28.

Mr. Heinig asked if the post office has looked into the two locations across the street, and do they meet the requirements? Mr. Mulvey replied that they did a cursory review, however, they are a government agency and they are required to go through the pre process first, and did not contact any property owners at this time.

Mrs. Feinberg asked if the parking could be shared. Mr. Mulvey responded that employee and truck parking could not, but customer parking could be shared jointly if in a shopping center, but they would want to be sure there was sufficient parking available to their patrons.

Mr. Mulvey could not answer the question asked if the postal facility would need to be gated as it is currently on Middletown Avenue. Mr. Katz then asked how many employees, non delivering; Ms. Zeif responded approximately 10 employees during the day, and the carriers for a few hours during the day. Mr. Katz noted that would required about 70 employee parking spaces leaving approximately 30 for patrons. Mr. Mulvey noted that was correct.

Mr. John's asked if they would need loading docks and Mr. Mulvey replied yes. Ms. Yarbrough asked about keeping the employee parking behind the facility, Mr. Mulvey noted that they don't have a specific property but would indeed want to keep the employee parking away from the front doors.

It was mentioned that during the day while the carriers are out with the trucks, that will create additional parking opportunities. Also asked was if the former Stop and Shop area has been looked at, Mr. Freda responded that it would be worth checking into.

Mr. Freda thanked the Postal Service representatives.

### **Ethics Board Update:**

Mr. Freda advised that the local newspapers have been advertising for candidates to send resumes to Town Hall to apply for the positions to sit on the Board of Ethics. Mr. Freda noted that he was giving both Mr. Fontana and Mr. Doheny the resumes currently received for the Board and asking them to review them between now and the next meeting. He also advised that we will be contacting the newspapers and asking them to cease with the advertisements, and thinks there will be more resumes still coming in. Mr. Freda noted that a decision will be made at the next Board of Selectmen Meeting on the first Thursday in February. Mr. Freda advised that the town website has the accurate and current Code of Ethics posted. The language has been looked at and it is noted that there may be restrictions for some people who may want to come off of one board to participate on the Ethics Board. Also, in fairness to both Mr. Fontana and Mr. Doheny, and because resumes are still coming in, he wanted to give them the courtesy to review

them. Mr. Freda then asked if either Mr. Fontana or Mr. Doheny know of anyone that they would like to have posted, they would be more than happy to entertain any opportunities they see. Mr. Freda stated that this would be addressed at the next meeting.

### **Inland Wetlands Alternate Appointments:**

Mr. Fontana moved to the appointment of two alternates to the Inland and Wetlands Commission, and thanked Mr. Freda and Mr. Doheny for their collaborative effort.

Mr. Fontana nominated and made a motion for the appointment to the position of alternate to the Inland and Wetlands Commission, Ms. Pam Sletten, 9 Frost Drive, to serve a four year term to expire 12/31/2013.

Voted: Freda – yes, Doheny – yes, Fontana – yes

Mr. Doheny noted that there was an additional alternate position on the Inland and Wetlands Commission and made a motion to appoint Mr. Steve Miller, 5 Round Hill Road, to fill the vacancy with a term to expire 12/31/2011.

Voted: Freda – yes, Doheny – yes, Fontana – yes

### **Resignations:**

Mr. Freda noted that he received two letters of resignation from the following:

Richard E. Wilson (R), 45 Summer Lane, from the Parks & Recreation Commission, term to expire 12/31/11

Resignation of Patricia A. Brown (D), 49 Garfield Avenue, from the North Haven Board of Finance, term to expire 12/01/11

Mr. Fontana thanked Ms. Brown for her service on the Board of Finance having served on the Board for eight years himself, he knows how important the work is and thanked her for her effort. He then moved to appoint Mr. William C. Kohlhepp, 9 Eleanor Road, to serve the un-expired remainder of her term. Mr. Kohlhepp's resume and qualifications were discussed by Mr. Fontana and Mr. Doheny.

Mr. Freda made a motion to accept Mr. Fontana's recommendation to make Mr. Kohlhepp a member of the Board of Finance term to expire 12/01/11.

Voted: Freda – yes, Doheny – yes, Fontana – yes

Mr. Doheny noted that at the last meeting someone was appointed to fill the remainder of Mr. Wilson's term because it was known that he had tendered his resignation, but the Board did not have his letter and the position has been filled.

Mr. Freda stated that resume of Michael Pepe that was missing from the last meeting is contained in the packet this evening.

## Resolutions

Mr. Freda explained the nature of the first resolution involved the refinancing of the bonds as previously discussed, in terms of refinancing approximately \$5.2 million dollars worth of bond debt, designed to save North Haven over a 13 year period approximately \$30,000 a year.

Mr. Fontana asked if the \$30,000 would not be earmarked, but rather go into the Town's General Fund, and Mr. Freda confirmed.

Mr. Doheny mentioned that on or about May of last year a presentation was made to the Board of Selectmen and Finance on refinancing the bonds, and was approved. However, the market may have changed and rates may have moved against the town, so they did not go forward with the refinancing at that time.

**(A) RESOLVED:** That the Board of Selectmen authorizes the issuance and sale of Town of North Haven General Obligation Refunding Bonds not to exceed \$6 million, authorizing combining into one issue and making determinations with the refunding bonds and other authorized but unissued bonds of the Town, authorizing agreements for the investment of refunding escrow and its reinvestment over its term.

Mr. Freda made a motion to accept aforementioned Resolution

Voted: Freda – yes, Doheny – yes, Fontana – yes

A copy of the complete Refunding Resolution is attached and made a part of these minutes.

Mr. Freda asked Ed Swinkoski to explain the additional resolutions. Mr. Swinkoski stated that we acquired four vehicles for the Police Department through TD Equipment Finance Company at a rate of about 3.97% over a three year period. The second lease is for two Public Works vehicles which will have snow plow packages attached to them and that will have a seven year lease that is roughly 4.5% interest over the seven year period through Kansas State Bank of Manhattan.

Mr. Freda stated that the \$387,000 for the acquisition for the lease of said equipment on Resolution B is over a seven year period. The lease process began approximately three or four months ago and Mr. Freda sees it as a carry over, and the lease interest rates average about 4% and he is not a big proponent of leasing because the Town cannot make 4% on our money in North Haven. The interest that we accrue is about a half a percent. So although the payments are extended over a period of time, Mr. Freda is not certain about the feasibility of leasing for the future and feels there are some downsides. On the upside, argument may be that there is less cash paid upfront, but the Town is paying more over the long term because the average rate is about 4%, and in a declining market we are making about a half percent interest. Discussions will be continuing regarding what will be done in the future.

Mr. Fontana noted that he assumes the Town needs these vehicles and he tends to agree that leasing is not the preferred option, but understands that it is the determination that it is the best option given where we are right now.

Mr. Freda stated that because it started three or four months ago, it is the only option we have right now.

Mr. Swinkoski noted that the amount that we were allocated in the budget for the current year was just enough for the lease payments for one year.

Mr. Freda noted that was a key point. Mr. Doheny stated that the leases were in the budget last year, so we are not approving any new dollars. All we are really doing is passing the resolution so that we may sign the documents for these vehicles.

Mr. Swinkoski noted that in the budget for the Police vehicles we have \$36,000 and \$45,000 for the Public Works trucks.

Mr. Freda noted two points. One that he, Chief DiCarlo, and Mr. Swinkoski are meeting with an auction company and as we bring these four police cruisers into the fleet, there will be police cruisers exiting out of the fleet. So we are trying to maximize how much value we can get on a resale of the cars that are going out of the fleet.

The second point Mr. Freda made was that we have a lot of expertise among our citizens, and it was recommended to him today by a citizen that we have an opportunity on future vehicles, particularly in Public Works, to do some things with the State. To look at auctions where there may be vehicles with less than 100,000 miles that are good functional vehicles that can last for a number of years, that we may be able to get for a lesser cost. Mr. Freda will be looking at what available resources there are versus buying brand new vehicles.

**(B) RESOLVED:** That the Board of Selectmen authorize the lease financing of police cruisers by the Town of North Haven and the expenditure of lease financing proceeds in an amount not to exceed \$87,755 for the acquisition of said vehicles.

Mr. Freda made a motion to accept aforementioned Resolution  
Voted: Freda – yes, Doheny – yes, Fontana – yes

A copy of the complete Resolution and the lease documents are attached and made a part of these minutes.

**(C) RESOLVED:** that the Board of Selectmen authorize the lease financing of snow plows by the Town of North Haven and the expenditure of lease financing proceeds in an amount not to exceed \$387,000 for the acquisition of said equipment.

Mr. Freda made a motion to accept aforementioned Resolution  
Voted: Freda – yes, Doheny – yes, Fontana – yes

A copy of the complete Resolution and the lease documents are attached and made a part of these minutes.

## Property Tax Refunds

Mr. Freda made a motion to approve the following property tax refunds:

Voted: Freda – yes, Doheny – yes, Fontana – yes

Toyota Motor Credit Corp, Box 105386, Atlanta, GA 30348, in the amount of \$99.72, and in the amount of \$157.99; Total amount \$257.71

Anthony R. Carbone, 24 Hansen Farm Road, North Haven, CT 06473, in the amount of \$18.41

Rosalie & James R. Laczak, Sr., 107 Spring Road, North Haven, CT 06473 in the amount of \$91.58, and in the amount of \$96.52, and in the amount of \$86.10, and in the amount of 76.32, and in the amount of \$70.50; Total amount \$421.02

Nissan Infiniti LT, Box 650214, Dallas, TX 75265, in the amount of \$79.40, and in the amount of \$53.06, and in the amount of \$82.54, and in the amount of \$92.82, and in the amount of \$172.37, and in the amount of \$238.25, and in the amount of \$215.71, and in the amount of \$285.26, and in the amount of \$71.90, and in the amount of \$39.99; Total amount \$1,331.30

VW Credit Leasing LTD, 1401 Franklin Blvd, Libertyville, IL 60048, in the amount of \$224.70, and in the amount of \$71.42; Total amount \$296.12

Thomas R Kusmit, 14 Dover Road, North Haven, CT 06473, in the amount of \$209.86

Edart Leasing Co LLC, PO Box 234, Hartford, CT 06141, in the amount of \$124.58, in the amount of \$124.58, and in the amount of \$124.58, and in the amount of \$87.89, and in the amount of \$87.89, and in the amount of \$87.89, and in the amount of \$62.92, and in the amount of \$30.29, and in the amount of \$163.54, and in the amount of \$151.86, and in the amount of \$43.81, and in the amount of \$84.20, and in the amount of \$253.59, and in the amount of \$126.80, and in the amount of \$126.80, and in the amount of \$198.27, and in the amount of \$198.27, and in the amount of \$43.81, and in the amount of \$249.90, and in the amount of \$124.58, and in the amount of \$249.90, and in the amount of \$249.90, and in the amount of \$124.58, and in the amount of \$249.90, and in the amount of \$249.90, and in the amount of \$124.58, and in the amount of \$249.90, and in the amount of \$124.58, and in the amount of \$69.35, and in the amount of \$28.45, and in the amount of \$239.68, and in the amount of \$109.79, and in the amount of \$320.87, and in the amount of \$239.68, and in the amount of \$236.09, and in the amount of \$84.20, and in the amount of \$158.32, and in the amount of \$105.14, and in the amount of \$158.32, and in the amount of \$158.32, and in the amount of \$105.14, and in the amount of

\$158.32, and in the amount of \$265.91, and in the amount of \$222.05, and in the amount of \$110.69, and in the amount of \$333.42, and in the amount of \$333.42, and in the amount of \$110.69, and in the amount of \$166.71, and in the amount of \$158.32, and in the amount of \$91.95, and in the amount of \$6.85, and in the amount of \$437.50; Total amount \$10,679.09

Enterprise Rent a Car, 17210 S Main Street, Gardena, CA 90247, in the amount of \$103.48

DCFS, 2050 Roanoke Road, West Lake, TX 76262, in the amount of \$100.94, and \$20.10, and \$23.30, and \$59.41, and \$21.98; Total amount \$225.73

Susan or Kenneth Ritter, 511 Elm St U 12-1, North Haven, CT 06473, in the amount of \$140.01

Ryder Truck Rental Inc, 99 Murphy Road, Hartford, CT 06114-2104, in the amount of \$114.63, and in the amount of \$76.26, and in the amount of \$87.51, and in the amount of \$100.97; Total amount \$ \$379.37

### **Bond Releases/Reduction**

Mr. Doheny made a motion to approve the following Bond Release/Reductions.  
Voted: Freda – yes, Doheny – yes, Fontana – yes

Stratton Properties, LLC, 511 Quinnipiac Avenue, North Haven, CT 06473, Release of balance in the amount of \$5,000.00 with the recommendation of the Planning & Zoning Commission

David Karas, 11 Peck Street, North Haven, CT 06473, Total Release of \$25,000.00, with the recommendation of the Planning & Zoning Commission

Thos. P. Morrone – Donald H. Brown, 5 St. John Street, North Haven, CT 06473 Release of balance in the amount of \$2,500.00, with the recommendation of the Planning & Zoning Commission

Robert Rebesch, 36 Nettleton Avenue, North Haven, CT 06473 Total Release of \$7,500.00 with the recommendation of the Planning & Zoning Commission

Area Cooperative Educational Services (ACES), 295 Mill Road, North Haven, CT 06473 Total Release in the amount of \$150,000.00 with the recommendation of the Planning & Zoning Commission

Luciani Realty (CT School of dog Grooming), 117 Washington Avenue, North Haven, CT 06473, Total Release in the amount of \$8,000.00 with the recommendation of the Planning & Zoning Commission

Mr. Freda announced that the next meeting of the Board of Selectmen is scheduled for Thursday, February 4th, 2010 at 7:00 p.m. in the Library Community Room.

The Board entertained comments from the public.

Irene Salman, 27 Drazen Drive, inquired about an update on the Senior Center.

Mr. Freda advised that there were several delays, and Public Works Department is working on them. Mr. Freda is pushing for a date and hoping that it can be completed by February 1<sup>st</sup>.

Mr. Freda commented on no longer have dates elapse without receiving updates prior to the expected date of completion date. They will be working hard to coordinate and manage communication ahead of time on all projects.

A resident asked when will they be moving the generator. Ms. Sadosky stated that it had been moved earlier in the day.

Mr. Gary Amato, 27 Pool Road, stated that with regard to Mr. Freda's zero tolerance for corruption, would Mr. Freda be speaking out, or constructing a letter against the Ierardi's request for accelerated rehabilitation. Mr. Freda stated that on behalf of North Haven, we are opposing accelerated rehabilitation.

Pam Sletten, 9 Frost Drive, thanked the people who supported her and is happy to be an alternate on the Inland Wetlands Commission. She appreciated the cooperation that led to her appointment as an alternate. She knows that Mr. Freda would like to make a strong and professional Inland Wetlands Commission, and she hopes that the Town will help support the new commissioners to go to the DEP training. As well as the staff being able to go to the Land Use Leadership Alliance Training sponsored by the PACE University School of Law Land Use Center, which would not incur any cost to the Town.

Ms. Sletten continued on to say that she is happy with her decision to stay on the commission, and thanked Mr. Trojanowski for his apology and support, and after speaking with him understood that his intentions did not come across at the last meeting. Ms. Sletten continued to discuss her hope that everyone will work together for the benefit of the Town.

Mr. Leiserson, 15 Cella Terrace, entered into a discussion regarding the last meeting held on the 28<sup>th</sup> of December and his disturbance regarding the conversations as they related to Ms. Sletten's appointment to the Inland Wetlands Commission.

Mr. Freda stated that he has had several nice conversations with Ms. Sletten following that meeting, and she had given him some good ideas on what to do in the future for other boards, and has worked out a compromise for Ms. Sletten.

Mr. Leiserson and Mr. Freda continued to discuss the issue.

Chris Peterson, 100 State Street, commented that he believes there is a time and place for everything, and supports the Board of Selectmen's Meeting. He feels that some people may consider using other avenues for ongoing issues, such as

personal phone call, meeting, email, blog, etc. He continued with comments regarding the appropriateness of the public comment portion of the meetings.

He posed a question to the Board regarding the article that appeared in the Citizen regarding the building inspection situation, and would there be any action taken by the administration regarding paid administrative leave for individuals named in the state investigation.

Mr. Freda replied that he is working closely with the State Attorney's office and State Building Officials, and is going to be cautious with his comments on this subject.

Gary Amato, 27 Pool Road, voiced concerns regarding Mr. Freda's mention of an individual's name at the last Board Meeting.

Mr. Freda replied that he has made a commitment not to bring up any names from this point forward, and a discussion ensued.

Mr. Amato wanted to clarify that Mr. Freda was the first person to contact the State Attorney's office. Mr. Freda confirmed that on his third day on the job he called the State Attorney's office as a responsibility to the Town. A discussion followed.

Michael Mele, 109 Maple Avenue, he has heard in the last several meetings reference to the last two years of the previous administration. He wanted to clarify one point; one of the main persons being investigated is centered around an individual that has been around for longer than two years and not technically inherited from the last administration.

Sherman Katz, Sherwood Drive, stated that ideally it would be good to close the \$1.4 million budget gap, using economies, and budget planning, etc. However, we also have alternatives, such as borrowing money, use the unfunded fund balance, or imposing a special tax on the tax payers of North Haven to obtain additional funds to help close the gap, and asked what the feelings of the Board would be with respect to those items.

Mr. Freda replied that he would avoid that at all costs, and mentioned that we are working with the Department Heads, we have a deficit mitigation plan that we are moving forward with and the intention is to balance the budget without the alternatives mentioned by Mr. Katz. Mr. Freda went on to discuss the Town Charter, along with additional comments by Mr. Doheny.

Gerry Feinberg, 34 Brockett Farm Road, stated that he was pleased that Mr. Freda was committed to being more cautious about speaking to matters that affect the Town of North Haven of a legal nature. Mr. Feinberg went on to speak about his disturbance regarding the article he read in the Register concerning Ms. Sletten. He also felt that Mr. Freda should reveal who he spoke with that complained to him regarding the Inland and Wetlands Commission, and his feelings why this was important.

Mr. Freda responded that back in April he met with approximately 45 businesses

at a Business Economic Forum at the Holiday Inn. One of the things he heard was the bureaucratic tendencies of the Inland and Wetlands, and the subject came up that with those tendencies, businesses may look to leave the Town. Mr. Freda feels he has an obligation to both the environmental side and the business side. His conclusion was to develop a more balanced perspective on Boards. Mr. Freda believes it is important to have balanced Boards and continued his discussion to this point.

Gary Amato, asked Mr. Freda if he was aware that he filed a complaint against a New York citizen, who is the daughter of a Town official with regard to election fraud. Mr. Freda responded he was not.

A question regarding the status of the Burns and Gomez case was posed. Mr. Freda summarized that they are still pending and has been looking to engage CIRMA and is working to minimize the legal fees. The case is pending is and moving from the former attorney to the new Town attorney and will need to be addressed very soon.

Mrs. Florence Sinow, Maple Avenue, stated that she is very pleased with the recent meetings and the way that the Selectmen are all working together. She was also disappointed with some of the individuals who spoke this evening and their comments and insinuations. She looks forward to coming back to the next meeting.

Mr. Freda asked if there were any more questions, hearing none and seeing none Mr. Freda moved for adjournment at 8:46 p.m.

Voted: Freda – yes, Doheny – yes, Fontana – yes

**RESOLUTION WITH RESPECT TO THE AUTHORIZATION,  
ISSUANCE AND SALE OF NOT EXCEEDING \$6 MILLION  
TOWN OF NORTH HAVEN GENERAL OBLIGATION  
REFUNDING BONDS, AUTHORIZING COMBINING INTO  
ONE ISSUE AND MAKING DETERMINATIONS WITH THE  
REFUNDING BONDS ANY OTHER AUTHORIZED BUT  
UNISSUED BONDS OF THE TOWN, AUTHORIZING  
AGREEMENTS FOR THE INVESTMENT OF REFUNDING  
ESCROW AND ITS REINVESTMENT OVER ITS TERM**

Section 1. \$6 million principal amount of refunding bonds of the Town of North Haven, or so much thereof as shall be necessary, are hereby authorized to be issued for the purpose of refunding, including advance refunding, all or any portion of the aggregate principal amount of any issue of Town of North Haven (hereinafter, the "Town") General Obligation Bonds now or hereafter outstanding or hereafter authorized, issued and outstanding, (the "Prior Bonds"), including but not limited to outstanding bonds of the Town's 2000 and 2002 issues and for the payment of all fees and expenses incurred in connection therewith, including redemption price, legal, fiscal advisor, underwriting, accounting, escrow verification, investment broker, printing, rating agencies, registrar, transfer and paying and escrow agents, printing, and such other costs and expenses, and those necessary, appropriate or customarily incurred in connection with the refunding of bonds.

Section 2. The bonds shall be in the denomination of \$1,000 or a whole multiple thereof, be issued in bearer form or in fully registered form, be executed in the name and on behalf of the Town by the manual or facsimile signatures of the First Selectman and Treasurer. They shall bear such rate or rates of interest or sold at such price or prices, including discount or premium with respect to par, as shall be determined by any two of the Director of Finance, the First Selectman and the Treasurer (the "Town Officials") pursuant to Section 7-370 of the General Statutes. The bonds and notes shall be general obligations of the Town, and each bond and note shall recite that every requirement of law relating to its issue has been duly complied with, that it is within every debt and other limit prescribed by law, that the full faith and credit of the Town are pledged to the payment of the principal thereof and the interest thereon, and will be paid from property taxation to the extent not paid from other sources. The aggregate principal amount of refunding bonds to be issued, the particular issue or portion thereof they shall refund, the annual installments of principal, redemption provisions, if any, the date, time and manner of issue and sale, interest rate on the bonds, designation of registration transfer and paying agent, financial advisor, underwriter, verification agent or other service providers to facilitate the issuance of the bonds and the transactions herein authorized, and other terms, details and particulars of such bonds, and their issuance and the use and investment of proceeds, including issuance premium, if any, shall be determined by the Town Officials in accordance with the General Statutes of the State of Connecticut, as amended, including but not limited to 7-370 et. seq. The refunding bonds authorized herein may be issued in one or more series, at one or more times and from time

to time, provided that, the aggregate principal amount of all such refunding bonds issued shall not exceed \$6 million.

Section 3. The Town Officials are hereby authorized on behalf of the Town of North Haven to enter into bond purchase contracts for the sale of the bonds, insurance or other credit enhancement contracts, escrow agreements, investment contracts to invest the proceeds of the bonds pending their use for the purposes of the issue, including purchasing open market treasury securities, State and Local Government Series, or any investment permitted by law, to enter into interest rate swap agreements or other agreements and determinations authorized by Section 7-370b and 7-370c, and to execute and deliver such other contracts or certificates necessary or appropriate to consummate the issuance of bonds and transactions herein contemplated, to contract with agents to act on behalf of the Town with respect to any of the foregoing and to apply the proceeds of such bonds for the purposes herein authorized. In connection with agreements to invest the proceeds of the bonds, the Town Officials are specifically authorized to enter into contracts to provide for the investment or reinvestment of amounts held in an advance refunding escrow, including but not limited to agreements to deliver, provide, or receive securities to fund the refunding escrow, or to otherwise facilitate refunding purposes, to purchase securities during the term of the escrow from proceeds derived from maturing escrow securities, including agreements committing to purchase or allow for the purchase of such securities over the term of the escrow, in exchange for payment, and which agreements may be described or are commonly known as escrow float contracts, escrow reinvestment agreements or generally, guaranteed investment contracts. Such agreements and any contract or agreement authorized hereunder, may include agreements with and instructions to an escrow agent, or consist of agreements with multiple parties to accomplish its objectives, provisions for delivery and payment of securities or exchanges of cash flow, provisions identifying the type of securities to be delivered, the date, principal amount, maturity date and maturity amount of delivered securities, the timing and amount of exchanged cash flows, if any, default provisions, the preconditions to entering into such agreements, including opinions of counsel, including reasoned opinions addressing the effect of bankruptcy, insolvency, appointment of a conservator or other similar proceedings with respect to any party to such contract, including, but not limited to a party agreeing to provide such securities to the escrow in exchange for payment therefore, or any party to an interest rate swap agreement. The agreements contemplated by this section may consist of more than one agreement entered into with more than one party. Any portion of the payment derived from such contracts may be deposited to the refunding escrow or expended to reduce, directly or indirectly, the amount of bonds required to be issued to refund the Town's Prior Bonds.

Section 4. The Town Officials are hereby authorized, on behalf of the Town of North Haven, to enter into agreements or otherwise covenant for the benefit of bondholders to provide information on an annual or other periodic basis to nationally recognized municipal securities information repositories or state based information repositories (the "Repositories") and to provide notices to the Repositories of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this resolution.

**Section 5.** The Town Officials are authorized to combine with the issue of refunding bonds herein authorized, bonds for any other purpose which the Town has authorized but, as of the issue date of the applicable series of refunding bonds, are unissued, including any bonds authorized subsequent to the date of adoption of this resolution. Solely in connection with such combined issue, the Town Officials in addition to the authority conferred upon them by any bond resolution authorizing the issue of the bonds to be combined into one issue with the refunding bonds, are hereby delegated the authority to enter into contracts of purchase for such bonds and to determine their interest rate, and to exercise with respect to such combined issue of bonds the authority herein conferred.

**Section 6.** The Town Officials are hereby authorized on behalf of the Town to enter into contracts and to execute and deliver certificates necessary, appropriate or advisable in their determination to consummate the issuance of the bonds and the transactions authorized herein.

**Section 7.** It is hereby found and determined that the issue of all, or a portion of, the Bonds, Notes or other obligations of the Town authorized to be issued herein as qualified private activity bonds, or with interest that is includable in gross income of the holders thereof for purposes of federal income taxation, is in the public interest. The Town Officials are hereby authorized to issue and utilize without further approval any financing alternative available to municipal governments pursuant to HR1, "Making Supplemental Appropriations for Job Preservation and Creation, Infrastructure Investment, Energy Efficiency and Science, Assistance to the Unemployed, and State and Local Fiscal Stabilization, for the Fiscal Year Ending September 30, 2009, and for other purposes" (the "American Recovery and Reinvestment Act of 2009"), including but not limited to any "tax credit bond," or "Build America Bonds" including Direct Payment and Tax Credit Versions.

**RESOLUTION AUTHORIZING THE LEASE FINANCING OF  
POLICE CRUISERS BY THE TOWN OF NORTH HAVEN  
AND THE EXPENDITURE OF LEASE FINANCING  
PROCEEDS IN AN AMOUNT NOT TO EXCEED \$87,755  
FOR THE ACQUISITION OF SAID VEHICLES**

Whereas the Town requires the use of police cruisers (the "Equipment") to perform its essential public safety function;

Whereas the Town has undertaken a bid process in compliance with law, with the input of the Chief of Police, and identified the Equipment to be purchased;

Whereas the Town intends to lease the Equipment with an option to purchase;

Whereas rental payments for the Equipment will be subject to annual appropriation by the Town in each year;

Whereas it is the intent of the Town of North Haven to approve and implement the lease and approve the expenditure of funds therefor and the transactions contemplated thereby;

Whereas the amount to be expended for the Equipment is \$87,755;

Whereas the Equipment is identified on the attached form of lease and accompanying documentation;

**Now therefore be it resolved by the Board of Selectmen:**

Section 1. The sum of \$87,755 is hereby approved to be expended from funds made available from a lessor for the acquisition of the Equipment. Acquisition of the Equipment shall include expenses for consultants, related equipment and features, testing, training, legal, administrative, warranty and financing costs associated with the Equipment, to the extent amounts are available therefore after payment of acquisition costs.

Section 2. A lease agreement is authorized to be entered into in the principal amount not to exceed \$87,755, or so much thereof as may be necessary for the lease of the Equipment after deducting state and federal grants, if any. The First Selectman, or the Director of Finance at his direction, is authorized to execute and deliver on behalf of the Town a lease agreement, a form of which is attached hereto and which is subject to amendment upon advice of counsel, provided that the lease payments shall be subject to annual appropriation of the Town. In the event of nonappropriation by the Town, the lease shall terminate as well as the Town's right to use and possess the Equipment. The lease may provide for the ownership, conditional or otherwise, by the Town of the Equipment upon the expiration of the lease term or pending payment of all rental payments. Additional lease terms concerning: payment of taxes as additional rental payments, conveyance of security interests to secure the interest of the lessor, the allocation of each rental payment between principal and interest, the

establishment of an escrow from which the Town officials will direct the expenditure of funds to acquire the Equipment, allocation to the Town of risk of loss, including due to accident or eminent domain, insurance, interval revenue code compliance, and such other provisions as appropriate and customary in such transactions are hereby authorized.

The First Selectman, or the Director of Finance at his direction, is authorized to determine: lease payment schedules, including interest rate component, the schedule of rental payments, the details and particulars of the lease and related documents, to combine the lease authorization herein with any other lease authorization, and to execute and deliver such other papers, instruments, opinions, certificates, affidavits, representations, land record and UCC recordings and other documents as necessary or proper to carry out this resolution and to lease the Equipment.

The First Selectman, or the Director of Finance at his direction, on behalf of the Town is authorized to accept and cause to be expended the proceeds derived from the lease agreement for the purposes stated herein.

Section 3. The First Selectman, or the Director of Finance at his direction, , or in his absence the Director of Finance, is hereby authorized, on behalf of the Town of North Haven, to enter into agreements or otherwise covenant for the benefit of the lessor or its assignees to provide information on an annual or other periodic basis to nationally recognized municipal securities information repositories or state based information repositories (the "Repositories") and to provide notices to the Repositories of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the Lease Agreement authorized by this resolution, and to comply with the provisions of the Internal Revenue Code in order to maintain the interest component of the rental payment exempt from federal income taxation.

Section 4. The Town of North Haven (the "Issuer") hereby expresses its official intent pursuant to §1.150-2 of the Federal Income Tax Regulations, Title 26 (the "Regulations"), to reimburse expenditures paid prior to the date of passage of this Resolution, and thereafter, in the maximum amount and for the capital project defined above with lease financing proceeds or other obligations ("Obligations") authorized to be issued by the Issuer. The Obligations shall be issued to reimburse such expenditures not later than 18 months after the later of the date of the expenditure or the substantial completion of the project, or such later date the Regulations may authorize. The Issuer hereby certifies that the intention to reimburse as expressed herein is based upon its reasonable expectations as of this date. The Director of Finance or his designee is authorized to pay project expenses in accordance herewith from available funds of the Issuer pending the issuance of reimbursement obligations, and to amend this resolution.

**TD EQUIPMENT FINANCE, INC.**  
**(CONNECTICUT)**  
2059 Springdale Road  
Cherry Hill, New Jersey 08003

**Lease Purchase Agreement**  
**LESSEE: Town of North Haven, CT**  
**AGREEMENT #40063571**

This agreement (the "Agreement") is a binding contract between **TD Equipment Finance, Inc.** ("TDEF") and **Town of North Haven** the "Lessee", when referring to the governing body, and the "Township" when referring to the territorial boundaries and the legal entity governed by the Lessee).

**1. Agreement:** In executing this Agreement, Lessee agrees to rent the equipment described in Exhibit A (the "Equipment"). Exhibit B sets forth the terms of the Agreement, including the commencement (or "Dated") date, which is the date when the term begins and Lessee's obligation to pay rent accrues. Rental Payments (the "Rental Payments") should be paid to TDEF as instructed, and must be paid only out of legally available funds. A portion of each rental payment represents interest and the balance of each Rental Payment represents principal, as shown on Exhibit B. In order to maintain that interest rate, Lessee must comply with the tax covenants described below and file informational federal tax Form 8038 GC in a timely manner. If not, each rental payment will be increased to compensate for the loss of the tax exemption status which was assumed in the initial interest rate, as set forth in Section 7 below. These are informational returns only and will not require Lessee to pay a tax. Lessee agrees to accept the Equipment when delivered, installed and operating to manufacturer's specifications and to execute the Acceptance Certificate, attached hereto as Exhibit D (the "Acceptance Certificate") supplied by TDEF as evidence thereof. Lessee agrees to hold TDEF harmless from damages, if for any reason, the vendor fails to deliver, or delays in delivery of, the Equipment so ordered or if the Equipment is unsatisfactory for any reason whatsoever. Lessee agrees that any delay in delivery of the Equipment shall not affect the validity of this Agreement or the obligation to make Rental Payments hereunder. Lessee's execution of the Acceptance Certificate shall conclusively establish that the Equipment covered thereby is acceptable to Lessee for all purposes of this Agreement. If Lessee fails or refuses to sign the Acceptance Certificate within a reasonable time, not to exceed five (5) business days, after the Equipment has been delivered, installed and is operating to manufacturer's specifications, TDEF shall have the option of treating this Agreement as cancelled by Lessee and Lessee shall automatically assume all of TDEF'S rights and obligations as purchaser of the Equipment.

**2. The Obligation to Make Payments:** Rental Payments shall be due and payable as set forth in Exhibit B hereto. The obligation of Lessee to pay Rental Payments hereunder is a current expense of Lessee and not a debt. This obligation is not in contravention of any applicable statutory or regulatory limitations or requirements; nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies of Lessee. All payments made by or on behalf of Lessee hereunder shall be nonrefundable. Except in the Event of Nonappropriation (hereinafter defined) as set forth in this paragraph, Lessee's obligation to pay such rental payments shall be absolute and unconditional and is not subject to any abatement, set-off, defense or counterclaim for any reason whatsoever. Lessee hereby represents and warrants that it has funds available to pay the Rental Payments set forth on Exhibit B through the end of the current fiscal year ("First Appropriation Period"). The Director of Finance intends to do all things lawfully within its power to obtain and to maintain funds from which the Rental Payments may be made. Notwithstanding the foregoing, the payments hereunder are subject to the annual appropriation of funds sufficient to meet the required payments. Hence, after the First Appropriation Period, if Lessee has not appropriated sufficient funds to pay TDEF for the Rental Payments and Lessee shall not have funds duly authorized for the Rental Payments or other amounts payable hereunder from other sources, an Event of Nonappropriation (an "Event of Nonappropriation") shall be deemed to have occurred. Lessee shall promptly deliver notice thereof to TDEF and shall endeavor to give such notice not less than one hundred twenty (120) days prior to the end of the last fiscal year for which an appropriation was made. Such notice shall state that the termination of this Agreement was caused by the failure of the Lessee to appropriate moneys to make Rental Payments due

hereunder and that Lessee shall promptly, upon the effective date of such termination, return the Equipment as hereinafter provided. If an Event of Nonappropriation has occurred, this Lease shall terminate, in whole, but not in part, as to all Equipment, effective upon the last day of the fiscal year for which funds were appropriated. Upon termination of this Lease as provided in this Section, Lessee shall not be responsible for the payment of any additional Rental Payments coming due in succeeding fiscal years. Lessee shall then, at Lessee's expense, promptly return the Equipment to TDEF to a location in the State of Connecticut specified by TDEF.

**3. The Equipment:** Lessee agrees and acknowledges that (I) Lessee has selected the Equipment to be acquired by TDEF and rented to Lessee, (II) the Equipment is, and during the period of this Agreement shall remain personal property, (III) the Equipment will have a useful life in Lessee's hands that is substantially in excess of the initial term of this Agreement, and (IV) Lessee does not intend to sell, or otherwise dispose of, the Equipment during the term of the Agreement. Lessee may contact the seller of the Equipment directly, as TDEF'S agent, to effect the acquisition of the Equipment. When Lessee accepts the Equipment, Lessee must deliver to TDEF an Acceptance Certificate. If the Equipment has not been identified on the date of this Agreement, the Purchase Price shall be deposited in an account held with TDEF ("Purchase Fund"). The Lessee shall submit an invoice for the Equipment to TDEF and upon TDEF'S approval of such invoice; TDEF shall fund the acquisition of the Equipment directly to the Equipment vendor out of moneys in the Purchase Fund. Lessee may assert claims and rights that TDEF may have against any manufacturer of the Equipment as well as the agents or dealers of the manufacturer (the "Vendor") of any portion of the Equipment.

**4. Security Interest and Title of the Equipment:** During the term of this Agreement, ownership of all Equipment and any and all repairs, replacements, substitutions and modifications thereto shall remain with TDEF until Lessee has paid all rental payments. By paying all such rental payments, Lessee shall be deemed to have exercised Lessee's option to acquire ownership of the Equipment, and upon such payment, title shall transfer automatically to Lessee, and TDEF in accordance with C.G.S § 42-406, shall be obligated to take all actions necessary to vest such title and ownership in Lessee. Notwithstanding ownership of the Equipment by TDEF, for federal income tax and accounting purposes and for purposes of Section 7 hereof, equitable title to the Equipment during the term of this Agreement shall be in the Lessee. Lessee acknowledges that TDEF does not operate, control or have possession of the Equipment and has no control over Lessee or Lessee's operation, use, storage or maintenance of the Equipment. Following an event of default or an Event of Nonappropriation or upon other termination of this Agreement for any reason other than Lessee's rights under Section 5, title to the Equipment will immediately vest in TDEF and Lessee will surrender possession of the Equipment to TDEF. Lessee authorizes TDEF to file a financing statement with respect to the Equipment where permitted by the Uniform Commercial Code (the "UCC"). The filing of a financing statement is not to be construed as evidence that any security interest was intended to be created, but only to give public notice of TDEF'S ownership of the Equipment. If this Agreement is deemed at any time to be one intended as security then Lessee grants TDEF a first priority security interest in the Equipment together with all related software (embedded therein or otherwise) and general intangibles, and all additions, accessories, attachments and accessions thereto whether furnished by the supplier of the Equipment, all subleases, chattel paper, accounts and security deposits relating thereto, and any

and all substitutions, replacements or exchanges for such item of Equipment, in each such case in which Lessee shall from time to time acquire an interest, and any and all proceeds (including insurance proceeds) of the Equipment and other collateral in and against which a security interest is granted hereunder. Lessee will promptly execute, or otherwise authenticate, and deliver to TDEF such further documents, instruments, assurances and other records, and take such further action as TDEF from time to time may reasonably request in order to carry out the intent and purpose of this Agreement and to establish and protect the rights and remedies created or intended to be created in favor of TDEF under such documents (including without limitation (i) lien searches and (ii) such UCC financing statements, fixture filings and waivers as reasonably may be required by TDEF in connection with any change in circumstances relating to Lessee, the Equipment or otherwise); provided, however, Lessee hereby authorizes TDEF to file any and all of the same without Lessee's authentication, to the extent permitted by applicable law. If requested by TDEF, Lessee shall conspicuously mark the Equipment with appropriate lettering, labels or tags and maintain such markings during the Lease Term so as clearly to disclose TDEF'S security interest in the Equipment. Upon termination of this Lease through exercise of Lessee's option to purchase pursuant to Section 5 or through payment by Lessee of all Rental Payments and, in either case, payment of all amounts relating thereto, TDEF'S security interest in the Equipment shall terminate, and TDEF shall execute and shall deliver to Lessee such documents as Lessee reasonably may request to evidence the termination of TDEF'S security interest in the Equipment.

**5. Refinance/Option to Purchase:** Lessee, at its sole discretion, may refinance this Lease Purchase Agreement at any time during the leased period. Lessee shall be entitled and shall have exercised its option to purchase the Equipment: (a) upon payment in full of all Rental Payments in accordance with Exhibit B hereof and all other amounts due hereunder, or (b) upon written notice delivered at least thirty (30) days in advance of a proposed date (which shall be a date scheduled for payment of a Rental Payment) for payment and upon payment on such date of the prepayment price equal to all principal due and remaining unpaid and interest accrued to such date of prepayment.

When Lessee exercises its purchase rights hereunder and TDEF shall have received all amounts due under this Agreement, then title shall pass simultaneously to Lessee, and this Agreement shall terminate. TDEF shall cooperate and execute such documents that are necessary for the title to the Equipment to vest with Lessee AS IS, WHERE IS, WITHOUT WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE, except that the Equipment shall not be subject to any Lien created by or arising through TDEF.

**6. Responsibilities for Repair and Maintenance:** Lessee agrees to maintain the Equipment in good condition and make all necessary repairs and replacements at Lessee's expense. Lessee agrees to maintain a maintenance log for the Equipment and permit TDEF to inspect the Equipment and the log(s). Lessee must have the Equipment serviced and repaired at Lessee's expense when servicing or repair is required within intervals not exceeding 125% of those recommended in the owner's manual(s).

**7. Tax Covenants:** Lessee will not make or direct any use of the proceeds of the obligation provided herein or any other funds which will cause such obligation to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended and the treasury regulations promulgated thereunder (the "Code"), to be "federally guaranteed" within the meaning of Section 149 of the Code or to be a "private activity bond" within the meaning of Section 141(a) of the Code. To that end, so long as any Rental Payments are unpaid, Lessee, with respect to such proceeds and such other funds, will comply with all requirements of such Code sections and all regulations of the United States Department of the Treasury issued thereunder to the extent that such requirements are, at the time, applicable and in effect. Furthermore, to the extent applicable pursuant to Section 148(f) of the Code, Lessee covenants to complete or cause to be completed all reporting requirements and rebate all positive arbitrage to the United States of America. Lessee covenants that the Equipment will be used only for the purpose of performing one or more of Lessee's governmental or proprietary functions and the Equipment will not be used in a trade or business of any person or entity other than Lessee on a basis different

from the general public. Lessee will not use or permit the use of the Equipment by any person for a "private business use" within the meaning of Section 141(b) of the Code in such matter or to such extent as would result in the inclusion of interest received hereunder in gross income for federal income tax purposes under Section 103 of the Code.

The parties will cooperate in performing all acts and things legally required or desirable in order to assure that the interest component of the rental payments will not be included in the gross income of TDEF or its assigns for federal income tax purposes.

If the Lessee shall cause any event to occur so that interest payments on the lease are includible in the gross income for federal income tax purposes of the recipient of the interest payments on the lease ("Event of Taxability"), the interest rate on the lease payments shall increase to the prime rate as published on the first day of the month in the Wall Street Journal ("Prime Rate") plus two percent (2%) from the date of the occurrence of the Event of Taxability. Lessee agrees to pay and indemnify TDEF for all interest, penalties, fines, additions to taxes, levied or assessed on the lease or TDEF as a result of the Event of Taxability.

**8. Lessee's Risk of Loss or Damage:** Lessee agrees to bear all risk of loss, damage, destruction or theft of the Equipment. Lessee must maintain insurance of the types and in the amounts not less than that set forth on Exhibit C, directing Lessee's insurance company to give TDEF a certificate showing TDEF, its successors and/or its assigns, as lender loss payee and an additional named insured. If Lessee does not maintain the required insurance, TDEF may obtain it and charge Lessee for it. Lessee must give TDEF prompt notice of (1) the loss, theft or destruction of any part of the Equipment, (2) any damage to the Equipment exceeding \$500, or (3) any claim arising out of the ownership, maintenance, storage or use of the Equipment. The parties will cooperate in deciding if insurance proceeds will be applied to the repair of the Equipment or to its purchase price. If TDEF receives insurance proceeds exceeding the amount of the purchase price shown on Exhibit B, plus interest, or the amount required to complete the work, TDEF agrees to forward the excess proceeds to Lessee.

**9. Indemnification:** Except for the intentional or negligent acts or omissions of TDEF arising out of entering into this Agreement, including any misstatements of material fact, in connection with any transfer of this Agreement, because Lessee has selected the Equipment for Lessee's use and purposes, and because Lessee operates and maintains the Equipment, Lessee agrees, to the extent permitted by law of the State of Connecticut, to indemnify TDEF against any and all loss, damage, injury, claims, taxes (excluding TDEF'S income taxes), fees, fines, penalties and expenses (including legal fees and expenses) of every kind that relate to the use, operation, ownership, condition or maintenance of the Equipment. Lessee's obligation to indemnify TDEF will continue after termination of the Agreement as to all matters, except those which arise from TDEF'S (or anyone TDEF sells or re-leases the Equipment to) use, operation, ownership, condition or maintenance of the Equipment following termination.

**10. No Warranty:** TDEF MAKES NO EXPRESS OR IMPLIED WARRANTIES CONCERNING THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR USE. THIS SECTION IN NO EVENT IS INTENDED TO AFFECT THE WARRANTIES OR REPRESENTATIONS CONTAINED IN ANY CONTRACT ENTERED INTO FOR THE ACQUISITION OF THE EQUIPMENT.

**11. Termination:** This Agreement will terminate: (1) upon payment of all amounts due hereunder by Lessee to TDEF, (2) at the time and for the reason set forth in Section 2, (3) if Lessee has returned the Equipment and paid all amounts due through the end of the term then in effect, including interest, (4) upon Lessee's purchase or refinance of the Equipment under Section 5 and Lessee's payment of all amounts due, (5) at TDEF'S option if Lessee defaults as described in Section 12, and (6) if all or any portion of the Equipment has been lost, stolen or damaged beyond repair, upon TDEF'S receipt of insurance proceeds covering the purchase price of the lost, stolen or damaged Equipment. When this Agreement terminates, if Lessee has not paid to TDEF all amounts due hereunder, Lessee must, at Lessee's expense, return the Equipment Lessee

has not purchased to TDEF at the address specified by TDEF, in as good condition as when Lessee received it, ordinary wear excepted. Lessee must remove all signs and markings and make all repairs (other than for ordinary wear) requested by TDEF. If Lessee does not, TDEF may do so and charge Lessee for it. No prepaid interest will be rebated to Lessee upon termination.

**12. Default:** The following constitute "Events of Default" under this Agreement: (a) failure by Lessee to pay any Rental Payment or other payment required to be paid hereunder when due; or (b) failure by Lessee to maintain insurance on the Equipment in accordance with Section 8; or (c) failure by Lessee to observe and perform any other covenant, condition or agreement on its part to be observed or performed for a period of fifteen (15) days after written notice is given to Lessee by TDEF, specifying such failure and requesting that it be remedied; provided, however, that if the failure stated in such notice cannot be corrected within such fifteen (15) day period, TDEF will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected; or (d) initiation by Lessee of a proceeding under any federal or state bankruptcy or insolvency law seeking relief under such laws concerning its indebtedness; or (e) the determination by TDEF that any representation or warranty made by Lessee in this Lease was untrue in any material respect upon the execution hereof. If any such default occurs, TDEF, without notice or demand, may declare this Agreement in default and declare all amounts eligible or actually appropriated for Rental Payments under this Agreement to be immediately due and payable. Equipment must then be returned to TDEF (at the address specified by TDEF) at Lessee's expense, and the Equipment and all Lessee's rights therein shall be deemed surrendered to TDEF. Upon declaration of default, TDEF may repossess the Equipment with or without process of law, and for the purposes may enter upon any of Lessee's premises or other's premises, wherever the Equipment may be found, without liability therefor. TDEF may recover from Lessee any unpaid amounts due or to become due for the remainder of the term of this Agreement, together with all expenses, including attorney's fees and legal expenses (to the extent permitted by law) incurred by TDEF to enforce its rights hereunder. The repossession and sale of the Equipment shall not affect TDEF'S right to recover from Lessee all damages which TDEF has suffered because of Lessee's breach. TDEF may sell or release the Equipment with or without advertisement, at public or private sale or leasing, without notice to Lessee, free of any of Lessee's interest, without any duty to account to Lessee for TDEF'S actions or inaction or for any sale or re-lease proceeds. The proceeds of any sale or re-lease will be applied in the following order: (1) to the proper and reasonable costs and expenses (including attorney's fees) associated with the default, repossession and restoration of title to TDEF, (2) to pay TDEF the amount of all unpaid Rental Payments, if any, which are then due and owing, together with interest and late charges thereon; then applicable prepayment price (taking into account the payment of past due Rental Payments as aforesaid), plus a pro rata allocation of interest, at the rate utilized to establish the interest component for the Rental Payment next due, from the next proceeding due date of a Rental Payment until the date of payment by Lessee, and any other amounts due hereunder, and (3) if any proceeds remain, to Lessee. If TDEF is unable to repossess any Equipment after a default, the Equipment shall be deemed to have suffered a total loss compensable under Section 8. TDEF may also enforce Lessee's performance of Lessee's covenants to recover damages for the breach of those covenants. TDEF'S rights and remedies in this section are not exclusive but are cumulative and in addition to all other rights and remedies that TDEF has at law or in equity.

**13. Liens:** This Equipment must be kept free of all liens and encumbrances, except TDEF'S security interest, at all times.

**14. Limitation on Assignment:** The Lessee may not assign or sublease this Agreement or any interest in it or the Equipment without TDEF'S prior written consent and a written opinion of nationally recognized bond counsel to the effect that any such assignment or sublease of this Agreement or any interest in it or the Equipment will not adversely effect the exclusion of the interest component of the Rental Payments from gross income for federal income tax purposes. In no event may Lessee assign or sublet this Agreement or any interest in it or the Equipment to a non-governmental entity. During the Lease Term, Lessee covenants that it shall keep a complete and accurate record of all assignments of the Lease as follows: (1) the Lease shall be assignable in whole only, not in part, to one single entity, (2) the assignor shall notify the Lessee of the assignment including the name and address of the assignee, the address and name to whom

rental payments shall be made, and the tax identification number of the assignee, and a contact person including title, address, telephone, fax and email address, such contact person shall be responsible and authorized to communicate and direct the Lessee with respect to rental payment information, (3) the assignee shall be authorized to replace the Lessee or provide for other assignment record keeping at assignee's own expense, (4) the Lessee shall have no responsibility to maintain records of assignees except in accordance with assignments that meet the foregoing criteria and (5) the Lessee shall maintain records of all assignments through the term of this Lease unless replaced pursuant to clause (3).

**15. Late Charges:** If Lessee does not pay Rental Payments due under this Agreement on their due date, TDEF may charge Lessee a late fee of \$5.00 or 5% of the amount that is late, whichever is more.

**16. Exhibits:** Exhibits A through H attached hereto are part of this Agreement, incorporated herein by reference, and must be executed by Lessee, where applicable.

**17. Other Terms:** This Agreement constitutes the entire agreement between the parties as to the subject matter it covers and may not be changed except by a written agreement signed by Lessee and TDEF. If any part of this Agreement is or becomes invalid, illegal or unenforceable, such invalidity, illegality or unenforceability will not affect the other or remaining provisions hereof. This Agreement and all rights and actions arising under it shall be governed by the laws of the State of Connecticut. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing signed by both parties, and then such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given. This Agreement may be executed in several counterparts. All notices must be addressed to the parties at their addresses shown on Exhibit B, or at another address specified by either party in writing and shall be deemed given when delivered or mailed by registered mail, postage prepaid. To the extent applicable, Lessee hereby waives any and all rights and remedies granted Lessee by Sections 508 through 522 of Article 2A of the Uniform Commercial Code including, by way of example only and not as a limitation, the right to repudiate this Agreement and reject the Equipment; the right to cancel this Agreement; the right to revoke acceptance of the Equipment; the right to grant a security interest in the Equipment in Lessee's possession and control for any reason; the right to recover damages thereunder for any breach of warranty or for any other reason deduct all or any part of the claimed damages resulting from TDEF'S default, if any, under this Agreement; the right to accept partial delivery of the Equipment; the right to "cover" by making any purchase or leases of or contract to purchase or lease Equipment in substitution for those due from TDEF; the right to recover any general, special, incidental or consequential damages, for any reason whatsoever; and the right to specific performance, replevin, detinue, sequestration, claim and delivery and the like for the Equipment. The waivers contained herein shall not constitute a waiver by Lessee of any of its rights or remedies against the vendor and/or manufacturer of the Equipment.

**18. Lessee Representations and Warranties:** Lessee hereby represents, warrants and covenants to TDEF the following with respect to this Agreement as of the date Lessee executes the Acceptance Certificate: (a) Lessee is organized and validly existing under the laws of the state of its organization listed below Lessee's signature herein, with adequate power and capacity to enter into this Agreement, all documents related to the purchase of the Equipment and any other documents required to be delivered in connection with this Agreement or the Equipment (hereinafter "Documents"); (b) the Documents have been duly authorized, executed and delivered by Lessee and constitute valid, legal and binding agreements, enforceable in accordance with their terms, except to the extent that the enforcement of remedies therein provided may be limited under applicable bankruptcy and insolvency laws; (c) no approval, consent or withholding of objections is required from any federal, state or local governmental authority or instrumentality with respect to the entry into or performance by Lessee of the Documents, except such as have already been obtained; (d) the entry into and performance by Lessee of its obligations under the Documents will not (i) violate any judgment, order, law or regulation applicable to Lessee or (ii) result in any breach of, constitute a default under or result in the creation of any lien, charge, security interest or other encumbrance upon any item of the Equipment pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument (other than this

Agreement or any purchase money security interest retained by any supplier) to which Lessee is a party; and (e) there are no suits or proceedings pending or threatened in court or before any regulatory commission, board or other administrative governmental agency against or affecting Lessee, which will have a material adverse effect on the ability of Lessee to fulfill its obligations under this Agreement; and (f) lessee has complied with all statutes, laws, regulations and procedures in entering into this Agreement and the matters contemplated hereby, including without limitation C.G.S. § 7-148.

**19. TDEF Representations and Warranties:** TDEF represents covenants and warrants as following:

- a) TDEF is a corporation duly organized, existing and in good standing under the laws of the State of Maine and is authorized to do business in the State of Connecticut; has full and complete power to enter into the Agreement, to enter into and to carry out the transactions contemplated by it hereby and thereby and to carry out its obligations under the Agreement, is possessed of full power to own and to hold real and personal property and to lease the same, and has duly authorized the execution and the delivery of the Agreement, and all other agreements, certificates and documents contemplated hereby and thereby.
- b) Neither the execution and the delivery of the Agreement, nor the fulfillment of or the compliance with the terms and the conditions thereof, nor the consummation of the transactions contemplated hereby and thereby conflicts with or results in a breach of the terms, the conditions or the provisions of any restriction, any agreement or any instrument to which TDEF is now a party or by which TDEF or its property is bound, constitutes a default under any of the foregoing that results in the creation or the imposition of any lien, charge or encumbrance whatsoever upon any of the property or the assets of TDEF or upon the Equipment.

**20. Financing:** In consideration for and upon the execution of this Agreement, TDEF hereby agrees to pay to the Lessee the amount of **\$87,755.00** which will be deposited in a separate project account which will be maintained by the Lessee (subject to the provisions of Section 3 hereof) for the purchase of the equipment and related costs. Audited Annual, Financial Statements are due within 30 days after completion.

**21. Conditions of Closing:** At or prior to payment to Lessee as stated in Section 20, TDEF shall have received the following:

- a) this Agreement executed by Lessee and TDEF;
- b) an executed Exhibit B to this Agreement;
- c) an executed Insurance Coverage Requirements Certificate, a form of which is attached hereto as Exhibit C;
- d) an executed Acceptance Certificate, a form of which is attached hereto as Exhibit D;
- e) a duly adopted resolution of Lessee, in form and substance acceptable to TDEF and including those matters set forth in Exhibit E;

- f) an executed Certificate of Lessee, a form of which is attached as Exhibit F;
- g) and executed Arbitrage and Tax Certificate, a form of which is attached as Exhibit G-1 for New Money Projects or as Exhibit G-2 for Refunding Projects;
- h) an opinion of counsel to Lessee, substantially in the form of the opinions attached as Exhibit H;
- i) an executed Form 8038 GC; and
- j) any and all opinions, certificates, instruments, financing statements or other documents as TDEF may request to evidence compliance with the agreements to be performed and all conditions to be satisfied under this Agreement.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement as of the date first set forth above.

**LESSOR:**  
**TD EQUIPMENT FINANCE, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**LESSEE:**  
**TOWN OF NORTH HAVEN**

By: \_\_\_\_\_

Name: Edward J. Swinkoski

Title: Director of Finance

**Jurisdiction of Organization: Connecticut**

**Organizational Number: N/A**

**Chief Executive Office: 18 Church Street  
North Haven, CT 06473**

**EXHIBIT A**

**SEE EQUIPMENT LIST BELOW WHICH IS ATTACHED HERETO AND MADE A PART HEREOF**

**(3) NEW 2010 CROWN VICTORIA POLICE INTERCEPTORS, VIN# 2FABP7BV7AX111191,  
2FABP7BV9AX111192 AND 2FABP7BV0AX111193**

**(1) NEW 2010 FORD TAURUS VIN# 1FAHP2HW8AG123935**

**LESSEE INITIALS:** \_\_\_\_\_

**EXHIBIT B**

**TERMS**

1. The Equipment which is the subject of the Lease Purchase Agreement is more fully described in Exhibit "A" to the Lease Purchase Agreement.
2. Fixed Interest Rate: 3.97%  
Date: \_\_\_\_\_

Event	Date	Amount	Number	Period	End Date
1 Loan	03/01/2010	87,755.00	1		
2 Payment	04/01/2010	2,589.71	36	Monthly	03/01/2013

	Date	Payment	Interest	Principal	Balance
Loan	03/01/2010				87,755.00
1	04/01/2010	2,589.71	290.33	2,299.38	85,455.62
2	05/01/2010	2,589.71	282.72	2,306.99	83,148.63
3	06/01/2010	2,589.71	275.09	2,314.62	80,834.01
4	07/01/2010	2,589.71	267.43	2,322.28	78,511.73
5	08/01/2010	2,589.71	259.75	2,329.96	76,181.77
6	09/01/2010	2,589.71	252.04	2,337.67	73,844.10
7	10/01/2010	2,589.71	244.31	2,345.40	71,498.70
8	11/01/2010	2,589.71	236.55	2,353.16	69,145.54
9	12/01/2010	2,589.71	228.76	2,360.95	66,784.59
2010 Totals		23,307.39	2,336.98	20,970.41	
10	01/01/2011	2,589.71	220.95	2,368.76	64,415.83
11	02/01/2011	2,589.71	213.11	2,376.60	62,039.23
12	03/01/2011	2,589.71	205.25	2,384.46	59,654.77
13	04/01/2011	2,589.71	197.36	2,392.35	57,262.42
14	05/01/2011	2,589.71	189.45	2,400.26	54,862.16
15	06/01/2011	2,589.71	181.51	2,408.20	52,453.96
16	07/01/2011	2,589.71	173.54	2,416.17	50,037.79
17	08/01/2011	2,589.71	165.55	2,424.16	47,613.63
18	09/01/2011	2,589.71	157.53	2,432.18	45,181.45
19	10/01/2011	2,589.71	149.48	2,440.23	42,741.22
20	11/01/2011	2,589.71	141.41	2,448.30	40,292.92
21	12/01/2011	2,589.71	133.31	2,456.40	37,836.52
2011 Totals		31,076.52	2,128.45	28,948.07	
22	01/01/2012	2,589.71	125.18	2,464.53	35,371.99
23	02/01/2012	2,589.71	117.03	2,472.68	32,899.31
24	03/01/2012	2,589.71	108.84	2,480.87	30,418.44
25	04/01/2012	2,589.71	100.64	2,489.07	27,929.37
26	05/01/2012	2,589.71	92.40	2,497.31	25,432.06
27	06/01/2012	2,589.71	84.14	2,505.57	22,926.49
28	07/01/2012	2,589.71	75.85	2,513.86	20,412.63
29	08/01/2012	2,589.71	67.53	2,522.18	17,890.45
30	09/01/2012	2,589.71	59.19	2,530.52	15,359.93
31	10/01/2012	2,589.71	50.82	2,538.89	12,821.04

32	11/01/2012	2,589.71	42.42	2,547.29	10,273.75
33	12/01/2012	2,589.71	33.99	2,555.72	7,718.03
2012 Totals		31,076.52	958.03	30,118.49	
34	01/01/2013	2,589.71	25.53	2,564.18	5,153.85
35	02/01/2013	2,589.71	17.05	2,572.66	2,581.19
36	03/01/2013	2,589.71	8.52	2,581.19	0.00
2013 Totals		7,769.13	51.10	7,718.03	
Grand Totals		93,229.56	5,474.56	87,755.00	

3. **The Equipment will be located at North Haven Police Department 18 Church Street, North Haven CT 06473.**
4. **Address of Lessee, for notification purposes, is: 18 Church Street, North Haven, CT 06473.**
5. **Address of TDEF for notification purposes, is: 2059 Springdale Road, Cherry Hill, NJ 08003**

**Acknowledged and Accepted:**

**LESSEE:  
TOWN OF NORTH HAVEN**

**By:** \_\_\_\_\_

**Name:** Edward J. Swinkoski

**Title:** Director of Finance

**EXHIBIT C**

**INSURANCE COVERAGE REQUIREMENTS CERTIFICATE**

1. In accordance with Section 8 of the Lease Purchase Agreement, we have instructed the insurance agent named below (please fill in name, address, contact person, telephone and facsimile numbers).

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to issue:

- a. All Risk Physical Damage Insurance on the leased Equipment (as defined in the Agreement) evidenced by a certificate of Insurance and Long Form Lender Loss Payable Clause naming Lessor "its successors and/or its assigns" as Lender Loss Payee.
- b. Public Coverage Required on non-School bus collateral:  
\$1,000,000.00 per person  
\$1,000,000.00 aggregate bodily injury liability  
\$1,000,000.00 property damage liability
- c. Public Coverage Required on School bus collateral:  
\$5,000,000.00 per person  
\$5,000,000.00 aggregate bodily injury liability  
\$5,000,000.00 property damage liability

OR

- 2. We are self-insured for all risk, physical damage, and public liability and will provide proof of such self-insurance in letter form together with a copy of the statute authorizing this form of insurance.
- 3. Proof of insurance coverage as provided in Section 1 or 2 of this Exhibit C will be provided to TDEF prior to the time that the Equipment or Unit thereof is delivered to us.

Certified this \_\_\_\_ day of \_\_\_\_, 20\_\_

**LESSEE:**  
**TOWN OF NORTH HAVEN**

**By:** \_\_\_\_\_

**Name:** Edward J. Swinkoski

**Title:** Director of Finance

**EXHIBIT D**

**ACCEPTANCE CERTIFICATE**

The undersigned, as Lessee under the Lease Purchase Agreement (the "Agreement") numbered **40063571**, with TD EQUIPMENT FINANCE, INC., Lessor, acknowledges receipt in good condition of the Equipment described in Exhibit "A" attached to the Lease Purchase Agreement, a copy of which is attached hereto, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

The undersigned officer of Lessee hereby reaffirms in all respects the provisions relating to arbitrage contained in the Agreement, and represents that, to the best of his or her knowledge, information and belief, the expectations therein expressed were reasonable as of the date on which they were made, and are reasonable as of this date, and that there were, and are as of this date, no facts, estimates or circumstances other than those expressed therein that would materially affect the expectations expressed therein.

Certified this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ :

**LESSEE:**  
**TOWN OF NORTH HAVEN**

By: \_\_\_\_\_

**Name:** Edward J. Swinkoski

**Title:** Director of Finance

**EXHIBIT E**

**MATTERS TO BE INCLUDED IN RESOLUTION OF GOVERNING BODY**

**Name:** TOWN OF NORTH HAVEN

**Date:** \_\_\_\_\_

At a duly called meeting of the governing body of Lessee (as defined in the Agreement) held on \_\_\_\_\_ the following resolution was introduced and adopted.

WHEREAS the governing body of Lessee has determined that a true and very real need exists for the acquisition of the Equipment described in the Lease Purchase Agreement presented to this meeting, and

WHEREAS, the governing body of Lessee has taken the necessary steps, including any legal bidding requirements, under applicable law to arrange for the acquisition of such Equipment.

BE IT RESOLVED, by the governing body of Lessee that the terms of said Lease Purchase Agreement are in the best interests of Lessee for the acquisition of such Equipment, and the governing body of Lessee designates and confirms the following persons to execute and deliver, and to witness (or attest), respectively, the Lease Purchase Agreement and any related documents necessary to the consummation of the transactions contemplated by the Lease Purchase Agreement.

By: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect and further certifies that the above and foregoing Lease Purchase Agreement is the same as presented at said meeting of the governing body of Lessee.

\_\_\_\_\_  
Secretary/Clerk

\_\_\_\_\_  
Date

**EXHIBIT F**

**CERTIFICATE OF LESSEE**

THE UNDERSIGNED, duly authorized representative of the named Lessee under that certain Lease Purchase Agreement dated \_\_\_\_\_ with TD EQUIPMENT FINANCE, INC. as Lessor (the "Agreement") hereby certifies as follows and in accordance with the requirements of the Agreement. Capitalized terms used herein have the same meaning as in the Agreement:

**A. INCUMBENCY OF OFFICERS AND SIGNATURES:**

I hold the position noted under my signature, and I have all the authority necessary to execute and deliver this Certificate. The following officers of Lessee are duly elected or appointed, and their signatures are true and correct, and where required, have been filed with the appropriate officials of the State:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title Printed

\_\_\_\_\_  
Title Printed

**B. ESSENTIAL USE:**

1. The Equipment will be used by the Lessee for the specific purpose of: The North Haven Police Department
2. The Equipment is essential for the functioning of Lessee and is immediately needed by Lessee. Such need is neither temporary nor expected to diminish during the Lease Term. The Equipment is expected to be used by Lessee for a period in excess of the Lease Term.
3. Funds are expected to come from the General Fund of Lessee.

This certificate is based upon facts, circumstances, estimates and expectations of Lessee as of the date on which the Agreement was executed, and to the best of my knowledge and belief, as of this date, such facts, circumstances and estimates are true and correct and such expectations are reasonable.

IN WITNESS WHEREOF, I have executed and delivered this certificate as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

WITNESS:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name & Title Printed

WITNESS:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name & Title Printed

**EXHIBIT G-1**

**ARBITRAGE AND TAX CERTIFICATE  
[NEW MONEY PROJECTS]**

I, Edward J. Swinkoski, hereby certify that I am the duly qualified Director of Finance of the (“township”) Town of North Haven (“Lessee”) and HEREBY CERTIFY TO THE BEST OF OUR KNOWLEDGE AND BELIEF as follows:

**I. GENERAL.**

1.1. The Lease. I am charged with the responsibility of executing a Lease Purchase Agreement (the “Lease”) with TD EQUIPMENT FINANCE, INC. (“Lessor”), dated as of \_\_\_\_\_ in the principal amount of **\$87,755.00**. The Lease provides the Lessor with certain rights to receive Rental Payments, consisting of a principal portion and an interest portion, and with certain other rights under the lease. All initially capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Lease.

1.2. Amount Deemed Received Under the Lease. The Lessee is deemed to have received **\$87,755.00**.

1.3. The Lease Approval. The Lessee is authorized to enter into the Lease pursuant to the Charter of the Town of North Haven and Section 7-148 of Chapter 19 of Title 7, of the Connecticut Statutes the Laws of the State of Connecticut.

1.4. Types of Proceeds. The proceeds from the Lease will consist of sale proceeds.

1.5. Regulations. References to Regulations mean the Treasury Regulations promulgated under Section 103, and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the “Code”).

1.6. Defined Terms. The following terms have the meanings ascribed to them in the Regulations (and the Code, where indicated) unless the context hereof clearly required otherwise:

- (a) available amount, §1.148-1(b);
- (b) bona fide debt service fund, §1.148-1(b);
- (c) bond year, §1.148-1(b);
- (d) capital expenditure, §1.150-1(b);
- (e) computation date, §1.148-3(e);
- (f) fair market value, §1.148-5(d)(6);
- (g) gross proceeds, §1.148-1(b);
- (h) investment, §1.148-1(b);
- (i) investment proceeds, §1.148-1(b);
- (j) investment property, §148(b)(2);
- (k) investment-type property, §1.148-1(e)(2);
- (l) issue, §1.150-1(c);

- (m) net sale proceeds, §1.148-1(b);
- (n) nonpurpose investment, §1.148-1(b);
- (o) nonpurpose receipts, §1.148-3(d)(2);
- (p) proceeds, §1.148-1(b);
- (q) rebate amount, §1.148-3(b);
- (r) rebate requirements, §1.148-3;
- (s) related party, §1.150-1(b);
- (t) replacement proceeds, §1.148-1(c);
- (u) sale proceeds, §1.148-1(b);
- (v) sinking fund, §1.148-1(c)(2); and
- (w) yield, §1.148-1(b).

## II. PURPOSE OF ISSUE.

2.1. Purpose of the Lease. The Lease is being executed to provide **\$87,755.00** to finance the purchase of **(3) Crown Victoria and (1) Ford Taurus Police Vehicles** (the “Project”).

2.2. No Investment-Type Property. Unless expressly permitted herein, no portion of the proceeds derived from the Lease will be used to finance “investment property” or “investment-type property” with a yield in excess of the yield under the Lease.

2.3. No Overissuance. The proceeds derived from the Lease do not exceed the amount that is required for the purposes described in Section 2.1 above.

2.4. No Reimbursement. None of the proceeds derived from the Lease will be used to reimburse the Lessee for an expenditure paid prior to the date hereof.

2.5. No Refunding. No portion of the proceeds of the Lease will be used, directly or indirectly, to refund another issue.

2.6. No Hedge Bonds. Not more than 50% of the proceeds of the Lease will be invested in nonpurpose investments having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A) of the Code, and at least 85% of the spendable proceeds of the Lease will be used to carry out the governmental purposes of such issue within the three year period beginning on the date hereof. The Lease does not constitute a “hedge bond” within the meaning of Section 149(g) of the Code.

2.7. No Replacement Proceeds.

(a) Other than the proceeds of the Lease, the Lessee has on hand no funds that (i) could legally and practically be used for the governmental purposes for which the Lease is being issued that are not pledged, budgeted, earmarked or otherwise necessary to be used for other purposes, or (ii) would be used for the governmental purposes of the Lease if the proceeds of the Lease were not used or to be used for such purpose.

(b) The Lessee does not reasonably expect that (i) the term of the Lease (which has a weighted average maturity of 1.5714 years) will be longer than reasonably necessary for the governmental purposes of the Lease, and (ii) there will be available amounts during the period that the Lease remains outstanding longer than necessary.

(c) No portion of the proceeds of the Lease will be used directly or indirectly (i) to replace funds of the Lessee or other agency, department, or division of the Lessee that could be used for the Project, or (ii) to replace any proceeds of any prior issuance of obligations by the Lessee or other agency, department or division of the Lessee.

**2.8. No Private Business Use of Project.**

(a) Not more than five percent (5%) of the proceeds of the Lease will be used, directly or indirectly, in whole or in part, in any activity carried on by any person other than a state or local governmental unit. A use of the proceeds includes (i) ownership of the Project, (ii) actual or beneficial use of the Project pursuant to a lease or a management, incentive payment or output contract, or (iii) any other similar arrangement, agreement or understanding, whether written or oral. The payment of the principal of or the interest on more than five percent (5%) of the Lease will not be, directly or indirectly; (i) secured by any interest in (A) property used or to be used in any activity carried on by any person other than a state or local governmental unit, or (B) payments in respect of such property; or (ii) derived from payments (whether or not by or to the Lessee), in respect of property, or borrower money, used or to be used in any activity carried on by any person other than a state or local governmental unit. For purposes of this paragraph (a), persons (other than a state or local governmental unit) using such proceeds on the same basis as the general public shall not be taken into account.

(b) None of the proceeds of the Lease will be used, directly or indirectly, to make or finance loans to persons other than a state or local governmental unit.

(c) No proceeds of the Lease will be used to make grants to any person.

**III. SOURCE AND DISTRIBUTION OF FUNDS.**

3.1. Proceeds Derived from the Lease. The proceeds derived from the Lease are **\$87,755.00** which constitute the "proceeds" for purposes of this Certificate.

3.2. Deposit of Proceeds to the Purchase Fund. The proceeds will be deposited in an account of the Lessee and will be applied for the costs of the Project.

3.3. Use of Proceeds. The Lessee will use the proceeds only for capital expenditures in connection with the Project. Such proceeds are not expected to be used to repay, at maturity or otherwise, any indebtedness of the Lessee. The proceeds will be used to pay all or a portion of the costs of the Project within three (3) years from the date hereof. The Lessee certifies that:

(a) It reasonably expects that at least 85% of the net sale proceeds of the Lease will be expended on the Project within three years after the date hereof;

(b) It reasonably expects to incur within 6 months from the date of issue hereof a substantial binding obligation (not subject to contingencies within the Lessee's or a related party's control) to a third party to expend at least 5% of the net sale proceeds of the Lease on the Project; and

(c) It reasonably expects the completion of the Project, and the allocation of net sale proceeds of the Lease to expenditures, to proceed with due diligence.

The proceeds of the Lease deposited into the account of the Lessee may be invested without regard to yield restriction until three years from the date hereof in accordance with Regulations Section 1.148-2(e)(2) and thereafter at a yield not materially higher (1/8 of one percentage point) than yield on the Lease, unless the requirements of

Treas. Reg. § 1.148-5(c) are met with respect to yield reduction payments.

3.4. No Reserves. No reserve account has been established by the Lessee.

3.5. No Costs of Issuance. None of the proceeds will be used to pay the costs incurred by the Lessee in connection with the authorization of the Lease.

3.6. Investment Limitation on Sinking Fund Proceeds. Amounts treated as proceeds of the Lease because they are accumulated in any sinking fund for the Lease shall be invested without regard to yield restriction for a period of thirty (30) days beginning on the date of accumulation, and thereafter shall be invested at a yield not in excess of the yield on the Lease.

3.7. No Other Funds or Accounts. There are no other funds or accounts that are reasonably expected to be used to pay rents under the Lease or that are pledged to the Lease, and for which there is reasonable assurance that amounts on deposit therein will be available to pay rents on the lease if the Lessee encounters financial difficulty.

3.8. Investment of Proceeds Derived from the Lease. The Lessee covenants that any and all investment proceeds earned on gross proceeds in excess of the yield under the Lease will be held and set aside for rebate to the federal government. Such amount shall be calculated in the manner and paid at the times required by the provisions of the Regulations.

#### **IV. TERMS OF THE LEASE AND CALCULATION OF YIELD.**

4.1. Terms of the Lease and Method for Computing Yield. The dated date, the date of maturity and the rate of interest of the Lease are as shown in the Lease, which by this reference is made a part hereof as if set forth in full herein. When used in computing the present worth of all payments of principal and interest to be paid on the Lease, produces an amount equal to the purchase price thereof.

4.2. Computation of Purchase Price. The Purchase Price of the Lease (as defined in section 4.4 below) is the product of arm's length negotiations between the Lessor and the Lessee, who are unrelated parties. The Lessor has indicated that it does not intend to reoffer the Lease.

4.3. No Insurance. No insurance has been obtained for the Lease.

4.4. The Purchase Price. The Purchase Price under the Lease is **\$87,755.00** ("Purchase Price").

4.5. Computation of Yield. The yield under the Lease, as computed in accordance with the method described in Section 4.1 above, using the Purchase Price that is specified in Section 4.4 above, is **3.97%**

#### **V. REBATE.**

5.1. Lessee (and all entities within the controlled group of the Lessee) has issued \$\_\_\_\_\_ in tax-exempt bonds and notes in the calendar year 20\_\_\_\_\_, including the Lease. Lessee (and all entities within the controlled group of the Lessee) does not expect to issue greater than \$5,000,000 (such \$5,000,000 shall be increased by the lesser of \$5,000,000 or the amount attributable to public school construction) in tax-exempt bonds or notes in the calendar year 20\_\_\_\_\_ which will count towards the small issuer exemption from rebate under Section 148(f)(4)(D) of the Code and Regulation Section 1.148-8.

5.2. Unless the Lessee qualifies for an exemption from the application of the rebate requirements of Code Section 148, the Issuer will comply with the rebate requirements. Regulation Sections 1.148-7 and -8 set forth the exemptions from rebate available to the Lessee.

## VI. MISCELLANEOUS.

6.1. Single Obligation. Except as discussed herein, there are no other issues of governmental obligations which (i) will be paid out of substantially the same source of funds, determined without regard to guarantees from unrelated parties, (ii) are being sold at substantially the same time as the Lease (*i.e.*, less than 15 days from the date of the execution of the Lease), and (iii) are being sold pursuant to the same plan of financing in connection with the Lease.

6.2. No Federal Guarantee. Except for the investments of the type described in the last sentence of this Section 6.2, no portion of the payment of the principal portion or interest portion of the rental payments or any credit enhancement or liquidity device relating to the foregoing is or will be guaranteed, directly or indirectly (in whole or in part), by the United States (or any agency or instrumentality thereof). No portion of the Lease has been or will be used to make loans the payment of principal or interest with respect to which is or will be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), or invested (directly or indirectly) in federally insured deposits or accounts. The foregoing provisions shall not apply to (a) proceeds of the Lease invested for an initial temporary period, as described in section 148(c) of the Code, until such proceeds are needed for the purpose for which said Lease was issued, (b) investments in a bona fide debt service fund, as described in Regulation Section 1.148-1(b), (c) investments in a reserve fund that meets the requirements of Section 148(d), (d) investments in obligations issued by the United States Treasury, or (e) any other investments permitted under regulations promulgated by the Secretary of the Department of the Treasury.

6.3. No Investments to Reduce Yield. The Lessee has not entered into and will not enter into any transaction to reduce the yield on the investment of the proceeds of the Lease in such a manner that the amount to be rebated to the Federal government is less than it would have been had the transaction been at arm's length and had the yield on the issue not been relevant to either party.

6.4. Basis for Statements as to Expectations. The statements as to the expectations of the Lessee made herein are reasonable as of the date of this certificate, and there are no facts, estimates or circumstances that would materially change the expectations expressed in this certificate.

6.5. Management Contract Limitations. The Lessee shall not enter into, materially modify or extend a management or service agreement with respect to any portion of the Project financed with proceeds of the Lease with any entity other than a state or a local governmental unit unless such agreement complies with Rev. Proc. 97-13 issued January 10, 1997, as supplemented by Rev. Proc. 2001-39 issued June 18, 2001, or any successor revenue procedure or regulation thereto.

6.6. Filing of 8038-G. On the date hereof, or within the time prescribed for filing such report, the Lessee has caused (or will cause) the filing of a true and complete information report on Form 8038-G with the Internal Revenue Service.

6.7. No Abusive Arbitrage Device. The Lease is not and will not be part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations thereunder (i) enabling the Lessee to exploit the difference between tax-exempt and taxable interest rates to obtain a material financial advantage and (ii) overburdening the tax-exempt bond market. The Lessee shall not intentionally use any portion of the proceeds from the Lease to acquire higher yield investments or to replace funds which were used, directly or indirectly, to acquire higher yielding investments except as otherwise described herein.

6.8. No Sale of Project. No portion of the Project financed by the Lease is expected to be sold, encumbered or otherwise disposed of prior to the last Rental Payment date without a written opinion of nationally recognized bond counsel to the effect that any such disposition will not adversely affect the exclusion of interest on the Lease from gross income for Federal income tax purposes.

6.9. Alteration or Nonobservance of Restrictions. The yield restrictions and any other restriction or covenant contained herein may be altered or ignored if the Lessee receives an opinion of nationally recognized bond counsel to the effect that such alteration or nonobservance will not adversely affect the tax exemption of interest under the Lease to which it is otherwise entitled.

6.10. Changes in Facts and Expectations. The Lessee acknowledges that any changes in facts or expectations from those set forth herein may result in different yield restrictions or rebate requirements from those set forth herein and that a nationally recognized bond counsel should be contracted if such changes do occur.

**IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS TO THIS ARBITRAGE AND TAX CERTIFICATE AS OF THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.**

**LESSEE:  
TOWN OF NORTH HAVEN**

**By: \_\_\_\_\_**

**Name: Edward J. Swinkoski**

**Title: Director of Finance**

## EXHIBIT H

### OPINION OF LESSEE'S COUNSEL

1. Lessee is duly organized and validly existing under the laws of the State of Connecticut, with full power and authority to enter into the Lease Purchase Agreement, all documents related to the purchase of the Equipment and any other documents required to be delivered in connection with the Lease Purchase Agreement or the Equipment (hereinafter "Documents").
2. The Documents, including without limitation, the Lease Purchase Agreement have been duly authorized and executed and are legal, valid and binding obligations of Lessee, enforceable in accordance with the respective terms thereof, except as enforcement may be affected by any applicable bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws or legal or equitable principles relating to the enforcement of creditors rights.
3. The Transactions contemplated by and under the Lease Purchase Agreement are in compliance with all local, state and federal law.
4. No approval, consent or withholding of objections is required from any federal, state or local governmental authority or instrumentality with respect to the entry into or performance by Lessee of the Documents, except such as have already been obtained.
5. The entry into and performance by Lessee of its obligations under the Documents will not (i) violate any judgment, order, law or regulation applicable to Lessee or (ii) result in any breach of, constitute a default under or result in the creation of any lien, charge, security interest or other encumbrance upon any item of the Equipment pursuant to any indenture, mortgage deed of trust, bank loan or credit agreement or other instrument (other than the Lease Purchase Agreement or any purchase money security interest retained by any supplier) to which Lessee is a party.
6. There are no suits or proceedings pending or threatened in court or before any regulatory commission, board or other administrative governmental agency against or affecting Lessee, which will have a material adverse affect on the ability of Lessee to fulfill its obligations under the Lease Purchase Agreement.
7. The Lessee has covenanted to comply with any continuing requirements that may be necessary to preserve the exclusion from gross income for purposes of federal income taxation under the Internal Revenue Code of 1986, as amended ("Code"), of the portion of the Basic Rent payments designated as interest. In the event that the Lessee continuously complies with its covenants under the Lease and so long as the amounts payable to the Lessor are derived from the Basic Rent payments made by the Lessee, the portion of the Basic Rent payments designated as interest is not includible in gross income for federal income tax purposes under the current law. No opinion is expressed as to the tax treatment of payments made to the Lessor from sources other than from Basic Rent payments made by the Lessee. The Lease and the obligation to pay Basic Rent thereunder as represented by the Lease are not "specified private activity bonds" as such term is defined in the Code and the portion of the Basic Rent payments designated as interest is not includible as an item of tax preference under Section 57 of the Code for purposes of computing the alternative minimum tax. However, the portion of Basic Rent payments designated as interest and received by the Lessor may be subject to an alternative minimum tax. [Except as set forth in paragraph 9 herein,][W]we express no opinion regarding other federal tax consequences arising with respect to the Lease.
8. The portions of the Basic Rent payments designated as interest represented by the Lease and any gain on the sale of the Lease are not includible as gross income under the Connecticut Gross Income Tax Act.
9. [The Lessee has validly designated the Certificate as a "qualified tax-exempt obligation" as defined in and for the purposes of Section 265(b)(3) of the Code.]

**RESOLUTION AUTHORIZING THE LEASE FINANCING OF  
SNOW PLOWS BY THE TOWN OF NORTH HAVEN AND  
THE EXPENDITURE OF LEASE FINANCING PROCEEDS  
IN AN AMOUNT NOT TO EXCEED \$387,000 FOR THE  
ACQUISITION OF SAID EQUIPMENT**

Whereas the Town requires the use of Snow Plows (the "Equipment") to perform its essential public safety functions;

Whereas the Town has undertaken a bid process in compliance with law, with the input of the Public Works Director, and identified the Equipment to be purchased;

Whereas the Town intends to lease the Equipment with an option to purchase;

Whereas rental payments for the Equipment will be subject to annual appropriation by the Town in each year;

Whereas it is the intent of the Town of North Haven to approve and implement the lease and approve the expenditure of funds therefor and the transactions contemplated thereby;

Whereas the amount to be expended for the Equipment is \$387,000;

Whereas the Equipment is identified on the attached form of lease and accompanying documentation;

**Now therefore be it resolved by the Board of Selectmen:**

Section 1. The sum of \$387,000 is hereby approved to be expended from funds made available from a lessor for the acquisition of the Equipment. Acquisition of the Equipment shall include expenses for consultants, related equipment and features, testing, training, legal, administrative, warranty and financing costs associated with the Equipment, to the extent amounts are available therefore after payment of acquisition costs.

Section 2. A lease agreement is authorized to be entered into in the principal amount of \$387,000, or so much thereof as may be necessary for the lease of the Equipment after deducting state and federal grants, if any. The First Selectman, or the Director of Finance at his direction, is authorized to execute and deliver on behalf of the Town a lease agreement, a form of which is attached hereto and which is subject to amendment upon advice of counsel, provided that the lease payments shall be subject to annual appropriation of the Town. In the event of nonappropriation by the Town, the lease shall terminate as well as the Town's right to use and possess the Equipment. The lease may provide for the ownership, conditional or otherwise, by the Town of the Equipment upon the expiration of the lease term or pending payment of all rental payments. Additional lease terms concerning: payment of taxes as additional rental payments, conveyance of security interests to secure the interest of the lessor, the allocation of each rental payment between principal and interest, the establishment of an

escrow from which the Town officials will direct the expenditure of funds to acquire the Equipment, allocation to the Town of risk of loss, including due to accident or eminent domain, insurance, interval revenue code compliance, and such other provisions as appropriate and customary in such transactions are hereby authorized.

The First Selectman, or the Director of Finance at his direction, is authorized to determine: lease payment schedules, including interest rate component, the schedule of rental payments, the details and particulars of the lease and related documents, to combine the lease authorization herein with any other lease authorization, and to execute and deliver such other papers, instruments, opinions, certificates, affidavits, representations, land record and UCC recordings and other documents as necessary or proper to carry out this resolution and to lease the Equipment.

The First Selectman, or the Director of Finance at his direction, on behalf of the Town is authorized to accept and cause to be expended the proceeds derived from the lease agreement for the purposes stated herein.

Section 3. The First Selectman, or the Director of Finance at his direction, , or in his absence the Director of Finance, is hereby authorized, on behalf of the Town of North Haven, to enter into agreements or otherwise covenant for the benefit of the lessor or its assignees to provide information on an annual or other periodic basis to nationally recognized municipal securities information repositories or state based information repositories (the "Repositories") and to provide notices to the Repositories of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the Lease Agreement authorized by this resolution, and to comply with the provisions of the Internal Revenue Code in order to maintain the interest component of the rental payment exempt from federal income taxation.

Section 4. The Town of North Haven (the "Issuer") hereby expresses its official intent pursuant to §1.150-2 of the Federal Income Tax Regulations, Title 26 (the "Regulations"), to reimburse expenditures paid prior to the date of passage of this Resolution, and thereafter, in the maximum amount and for the capital project defined above with lease financing proceeds or other obligations ("Obligations") authorized to be issued by the Issuer. The Obligations shall be issued to reimburse such expenditures not later than 18 months after the later of the date of the expenditure or the substantial completion of the project, or such later date the Regulations may authorize. The Issuer hereby certifies that the intention to reimburse as expressed herein is based upon its reasonable expectations as of this date. The Director of Finance or his designee is authorized to pay project expenses in accordance herewith from available funds of the Issuer pending the issuance of reimbursement obligations, and to amend this resolution.

# LEASE WITH OPTION TO PURCHASE AGREEMENT

Standard Escrow 102307

## Lessee:

«LesseeName»  
«LesseeAddress»  
«LesseeCityStateZip»

## Lessor:

Kansas State Bank of Manhattan  
1010 Westloop, P.O. Box 69  
Manhattan, Kansas 66505-0069

Dated as of «LeaseDate»

This Lease With Option to Purchase Agreement dated as of the date listed above is between Lessor and Lessee listed directly above. Lessor desires to finance the purchase of the Equipment described in Exhibit "A" to Lessee and Lessee desires to finance the purchase of the Equipment from Lessor subject to the terms and conditions of this Agreement which are set forth below.

## I. Definitions:

- Section 1.01. Definitions.** The following terms will have the meanings indicated below unless the context clearly requires otherwise:
- "Additional Schedule" refers to the proper execution of additional Schedules to Exhibit A, Exhibit B, Exhibit C and Exhibit D as well as other exhibits or documents that may be required by the Lessor all of which relate to a lease of additional Equipment.
  - "Agreement" means this Lease with Option to Purchase Agreement and all Exhibits attached hereto.
  - "Budget Year" means the Lessee's fiscal year.
  - "Commencement Date" is the date when Lessee's obligation to pay rent begins.
  - "Equipment" means all of the items of Equipment listed on Exhibit "A" and all replacements, restorations, modifications and improvements.
  - "Lessee" means the entity listed above as Lessee and which is leasing the Equipment from Lessor under the provisions of this Agreement.
  - "Lessor" means the entity originally listed above as Lessor or any of its assignees.
  - "Lease Term" means the Original Term and all Renewal Terms.
  - "Original Term" means the period from the Commencement Date until the end of the Budget Year of Lessee.
  - "Renewal Term" means the annual term which begins at the end of the Original Term and which is simultaneous with Lessee's Budget Year.
  - "Rental Payments" means the payments Lessee is required to make under this Agreement as set forth on Exhibit "B".
  - "State" means the state in which Lessee is located.

## II. Lessee Warranties

- Section 2.01. Lessee represents, warrants and covenants as follows for the benefit of Lessor or its assignees:**
- (a) Lessee is an "issuer of tax exempt obligations" because Lessee is the State or a political subdivision of the State within the meaning of Section 103(a) of the Internal Revenue Code of 1986, as amended, (the "Code") or because Lessee is a constituted authority or district authorized to issue obligations on behalf of the State or political subdivision of the State within the meaning of Treasury Regulation 1.103-1(b).
  - (b) Lessee is authorized under the Constitution and laws of the State to enter into this Agreement, and has used such authority to properly execute and deliver this Agreement. Lessee has followed all proper procedures of its governing body in executing this Agreement. The Officer of Lessee executing this Agreement has the authority to execute and deliver this Agreement. This Agreement constitutes a legal, valid, binding and enforceable obligation of the Lessee in accordance with its terms.
  - (c) Lessee has complied with all statutory laws and regulations that may be applicable to the execution of this Agreement.
  - (d) Lessee shall use the Equipment only for essential, traditional governmental purposes.
  - (e) Should the IRS disallow the tax-exempt status of the Interest Portion of the Rental Payments as a result of the failure of the Lessee to use the Equipment for governmental purposes, then Lessee shall be required to pay additional sums to the Lessor or its assignees so as to bring the after tax yield to the same level as the Lessor or its assignees would attain if the transaction continued to be tax-exempt.
  - (f) Should the Lessee cease to be an issuer of tax exempt obligations or if the obligation of Lessee created under this Agreement ceases to be a tax exempt obligation for any reason, then Lessee shall be required to pay additional sums to the Lessor or its assignees so as to bring the after tax yield on this Agreement to the same level as the Lessor or its assignees would attain if the transaction continued to be tax-exempt.
  - (g) Lessee has never non-appropriated funds under an Agreement similar to this Agreement.
  - (h) Lessee will submit to the Secretary of the Treasury an information reporting statement as required by the Code.
  - (i) Upon request by Lessor, Lessee will provide Lessor with current financial statements, reports, budgets or other relevant fiscal information.
  - (j) Lessee shall retain the Equipment free of any hazardous substances as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et. seq. as amended and supplemented.
  - (k) Lessee presently intends to continue this Agreement for the Original Term and all Renewal Terms as set forth on Exhibit "B" hereto. The official of Lessee responsible for budget preparation will include in the budget request for each Budget Year the Rental Payments to become due in such Budget Year, and will use all reasonable and lawful means available to secure the appropriation of money for such Budget Year sufficient to pay the Rental Payments coming due therein. Lessee reasonably believes that moneys can and will lawfully be appropriated and made available for this purpose.

**Section 2.02. Escrow Agreement.** In the event both Lessor and Lessee mutually agree to utilize an Escrow Account, then immediately following the execution and delivery of this Agreement, Lessor and Lessee agree to execute and deliver and to cause Escrow Agent to execute and deliver the Escrow Agreement. This Agreement shall take effect only upon execution and delivery of the Escrow Agreement by the parties thereto. Lessor shall deposit or cause to be deposited with the Escrow agent for credit to the Equipment Acquisition Fund the sum of \$«AmountToEscrow», which shall be held, invested and disbursed in accordance with the Escrow Agreement.

## III. Acquisition of Equipment, Rental Payments and the Purchase Option Price

- Section 3.01. Acquisition and Acceptance.** Lessee shall be solely responsible for the ordering of the Equipment and for the delivery and installation of the Equipment. Execution of the Acceptance Certificate by an employee, official or agent of the Lessee having managerial, supervisory or procurement authority with respect to the Equipment shall constitute acceptance of the Equipment on behalf of the Lessee.
- Section 3.02. Rental Payments.** Lessee shall pay Rental Payments exclusively to Lessor or its assignees in lawful, legally available money of the United States of America. The Rental Payments shall be sent to the location specified by the Lessor or its assignees. The Rental Payments shall constitute a current expense of the Lessee and shall not constitute an indebtedness of the Lessee. The Rental Payments are due as set forth on Exhibit B. Lessor shall have the option to charge interest at the highest lawful rate on any Rental Payment received later than the due date for the number of days that the Rental Payment(s) were late, plus any additional accrual on the outstanding balance for Payment that is past due. The Rental Payments will be payable without notice or demand.
- Section 3.03. Rental Payments Unconditional.** Except as provided under Section 4.01, THE OBLIGATIONS OF LESSEE TO MAKE RENTAL PAYMENTS AND TO PERFORM DIMINUTION, DEDUCTION, SET-OFF OR DEFENSE.
- Section 3.04. Purchase Option Price.** Upon thirty (30) days written notice, Lessee shall have the option to pay, in addition to the Rental Payment, the corresponding Purchase Option Price which is listed on the same line on Exhibit B. This option is only available to the Lessee on the Rental Payment date and no partial prepayments are allowed. If Lessee chooses this option and pays the Purchase Option Price to Lessor then Lessor will transfer any and all of its rights, title and interest in the Equipment to Lessee.
- Section 3.05. Lease Term.** The Lease Term of the Agreement shall be the Original Term and all Renewal Terms until all the Rental Payments are paid as set forth on Exhibit B except as provided under Section 4.01 and Section 9.01 below. If, after the end of the budgeting process which occurs at the end of the Original Term or any Renewal Term, Lessee has not non-appropriated as provided for in this Agreement then the Lease Term shall be extended into the next Renewal Term and the Lessee shall be obligated to make all the Rental Payments that come due during such Renewal Term.
- Section 3.06. Disclaimer of Warranties.** LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR ANY OTHER WARRANTY WITH RESPECT TO THE EQUIPMENT. LESSOR SHALL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE ARISING OUT OF THE INSTALLATION, OPERATION, POSSESSION, STORAGE OR USE OF THE EQUIPMENT BY LESSEE.

#### IV. Non-Appropriation

**Section 4.01. Non-Appropriation.** If insufficient funds are available in Lessee's budget for the next Budget Year to make the Rental Payments for the next Renewal Term and the funds to make such Rental Payments are otherwise unavailable by any lawful means whatsoever, then Lessee shall have the option to non-appropriate the funds to pay the Rental Payments for the next Renewal Term. Lack of a sufficient appropriation shall be evidenced by the passage of an ordinance or resolution by the governing body of Lessee specifically prohibiting Lessee from performing its obligations under this Agreement and from using any moneys to pay the Rental Payments due under this Agreement for a designated Budget Year and all subsequent Budget Years. If Lessee chooses this option, then all obligations of the Lessee under this Agreement regarding Rental Payments for all remaining Renewal Terms shall be terminated at the end of the then current Original Term or Renewal Term without penalty or liability to the Lessee of any kind provided that if Lessee has not delivered possession of the Equipment to Lessor as provided herein and conveyed to Lessor or released its interest in the Equipment by the end of the last Budget Year for which Rental Payments were paid, the termination shall nevertheless be effective but Lessee shall be responsible for the payment of damages in an amount equal to the amount of the Rental Payments thereafter coming due under Exhibit "B" which are attributable to the number of days after such Budget Year during which Lessee fails to take such actions and for any other loss suffered by Lessor as a result of Lessee's failure to take such actions as required. Lessee shall immediately notify the Lessor as soon as the decision to non-appropriate is made. If such non-appropriation occurs, then Lessee shall deliver the Equipment to Lessor as provided below in Section 9.04. Lessee shall be liable for all damage to the Equipment other than normal wear and tear. If Lessee fails to deliver the Equipment to Lessor, then Lessor may enter the premises where the Equipment is located and take possession of the Equipment and charge Lessee for costs incurred.

#### V. Insurance, Damage, Insufficiency of Proceeds

**Section 5.01. Insurance.** Lessee shall maintain both casualty insurance and liability insurance at its own expense with respect to the Equipment. Lessee shall be solely responsible for selecting the insurer(s) and for making all premium payments and ensuring that all policies are continuously kept in effect during the period when Lessee is required to make Rental Payments. Lessee shall provide Lessor with a Certificate of Insurance which lists the Lessor and/or assigns as a loss payee and an additional insured on the policies with respect to the Equipment.

- Lessee shall insure the Equipment against any loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State and any other risks reasonably required by Lessor in an amount at least equal to the then applicable Purchase Option Price of the Equipment. Alternatively, Lessee may insure the Equipment under a blanket insurance policy or policies.
- The liability insurance shall insure Lessor from liability and property damage in any form and amount satisfactory to Lessor.
- Lessee may self-insure against the casualty risks and liability risks described above. If Lessee chooses this option, Lessee must furnish Lessor with a certificate and/or other documents which evidences such coverage.
- All insurance policies issued or affected by this Section shall be so written or endorsed such that the Lessor and its assignees are named additional insureds and loss payees and that all losses are payable to Lessee and Lessor or its assignees as their interests may appear. Each policy issued or affected by this Section shall contain a provision that the insurance company shall not cancel or materially modify the policy without first giving thirty (30) days advance notice to Lessor or its assignees. Lessee shall furnish to Lessor certificates evidencing such coverage throughout the Lease Term.

**Section 5.02. Damage to or Destruction of Equipment.** Lessee assumes the risk of loss or damage to the Equipment. If the Equipment or any portion thereof is lost, stolen, damaged, or destroyed by fire or other casualty, Lessee will immediately report all such losses to all possible insurers and take the proper procedures to attain all insurance proceeds. At the option of Lessor, Lessee shall either (1) apply the Net Proceeds to replace, repair or restore the Equipment or (2) apply the Net Proceeds to the applicable Purchase Option Price. For purposes of this Section and Section 5.03, the term Net Proceeds shall mean the amount of insurance proceeds collected from all applicable insurance policies after deducting all expenses incurred in the collection thereof.

**Section 5.03. Insufficiency of Net Proceeds.** If there are no Net Proceeds for whatever reason or if the Net Proceeds are insufficient to pay in full the cost of any replacement, repair, restoration, modification or improvement of the Equipment, then Lessee shall, at the option of Lessor, either (1) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds or (2) apply the Net Proceeds to the Purchase Option Price and pay the deficiency, if any, to the Lessor.

**Section 5.04. Lessee Negligence.** Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Equipment and for injury to or death of any person or damage to any property whether such injury or death be with respect to agents or employees of Lessee or of third parties, and whether such property damage be to Lessee's property or the property of others (including, without limitation, liabilities for loss or damage related to the release or threatened release of hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act or similar or successor law or any state or local equivalent now existing or hereinafter enacted which in any manner arise out of or are incident to any possession, use, operation, condition or storage of any Equipment by Lessee) which is proximately caused by the negligent conduct of Lessee, its officers, employees and agents. Lessee hereby assumes responsibility for and agrees to reimburse Lessor for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorneys' fees) of whatsoever kind and nature, imposed on, incurred by or asserted against Lessor that in any way relate to or arise out of a claim, suit or proceeding, based in whole or in part upon the negligent conduct of Lessee, its officers, employees and agents, to the maximum extent permitted by law.

#### VI. Title and Security Interest

**Section 6.01. Title.** Title to the Equipment shall vest in Lessee when Lessee acquires and accepts the Equipment. Title to the Equipment will automatically transfer to the Lessor in the event Lessee non-appropriates under Section 4.01 or in the event Lessee defaults under Section 9.01. In either of such events, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of legal title to the Equipment to Lessor.

**Section 6.02. Security Interest.** To secure the payment of all Lessee's obligations under this Agreement, Lessee hereby grants to Lessor a security interest under the Uniform Commercial Code constituting a first lien on the Equipment described more fully on Exhibit "A". The security interest established by this section includes not only all additions, attachments, repairs and replacements to the Equipment but also all proceeds therefrom. Lessee authorizes Lessor to prepare and record any Financing Statement required under the Uniform Commercial Code to perfect the Security Interest created hereunder.

#### VII. Assignment

**Section 7.01. Assignment by Lessor.** All of Lessor's rights, title and/or interest in and to this Agreement may be assigned and reassigned in whole or in part to one or more assignees or sub-assignees (including a Registered Owner for Lease Participation Certificates) by Lessor at any time without the consent of Lessee. No such assignment shall be effective as against Lessee until the assignor shall have filed with Lessee written notice of assignment identifying the assignee. Lessee shall pay all Rental Payments due hereunder relating to such Equipment to or at the direction of Lessor or the assignee named in the notice of assignment. Lessee shall keep a complete and accurate record of all such assignments.

**Section 7.02. Assignment by Lessee.** None of Lessee's right, title and interest under this Agreement and in the Equipment may be assigned by Lessee unless Lessor approves of such assignment in writing before such assignment occurs and only after Lessee first obtains an opinion from nationally recognized counsel stating that such assignment will not jeopardize the tax-exempt status of the obligation.

#### VIII. Maintenance of Equipment

**Section 8.01.** Lessee shall keep the Equipment in good repair and working order. Lessor shall have no obligation to inspect, test, service, maintain, repair or make improvements or additions to the Equipment under any circumstances. Lessee will be liable for all damage to the Equipment, other than normal wear and tear, caused by Lessee, its employees or its agents. Lessee shall pay for and obtain all permits, licenses and taxes necessary for the installation, operation, possession, storage or use of the Equipment. If the Equipment includes any titled vehicle(s), then Lessee is responsible for obtaining such title(s) from the State and also for ensuring that Lessor is listed as First Lienholder on all of the title(s). Lessee shall not use the Equipment to haul, convey or transport hazardous waste as defined in the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et. seq. Lessee shall not during the term of this Agreement create, incur or assume any leases, liens or encumbrances of any kind with respect to the Equipment except those created by this Agreement. Lessee agrees that Lessor or its Assignee may execute any additional documents including financing statements, affidavits, notices, and similar instruments, for and on behalf of Lessee which Lessor deems necessary or appropriate to protect Lessor's interest in the Equipment and in this Agreement. The Equipment is and shall at all times be and remain personal property. Lessee shall allow Lessor to examine and inspect the Equipment at all reasonable times.

#### IX. Default

**Section 9.01. Events of Default defined.** The following events shall constitute an "Event of Default" under this Agreement:

- Failure by Lessee to pay any Rental Payment listed on Exhibit "B" for fifteen (15) days after such payment is due according to the Payment Date listed on Exhibit "B".
- Failure to pay any other payment required to be paid under this Agreement at the time specified herein and a continuation of said failure for a period of fifteen (15) days after written notice by Lessor that such payment must be made. If Lessee continues to fail to pay any payment after such period, then Lessor may, but will not be obligated to, make such payments and charge Lessee for all costs incurred plus interest at the highest lawful rate.
- Failure by Lessee to observe and perform any warranty, covenant, condition, promise or duty under this Agreement for a period of thirty (30) days after written notice specifying such failure is given to Lessee by Lessor, unless Lessor agrees in writing to an extension of time. Lessor will not unreasonably withhold its consent to an extension of time if corrective action is instituted by Lessee. Subsection (c) does not apply to Rental Payments and other payments discussed above.
- Any statement, material omission, representation or warranty made by Lessee in or pursuant to this Agreement which proves to be false, incorrect or misleading on the date when made regardless of Lessee's intent and which materially adversely affects the rights or security of Lessor under this Agreement.

- (e) Any provision of this Agreement which ceases to be valid for whatever reason and the loss of such provision would materially adversely affect the rights or security of Lessor.
- (f) Lessee admits in writing its inability to pay its obligations. Lessee defaults on one or more of its other obligations. Lessee applies or consents to the appointment of a receiver or a custodian to manage its affairs. Lessee makes a general assignment for the benefit of creditors.

**Section 9.02. Remedies on Default.**

- (a) Whenever any Event of Default exists, Lessor shall have the right to take one or any combination of the following remedial steps: Budget Year to be immediately due and payable.
- (b) With or without terminating this Agreement, Lessor may require Lessee at Lessee's expense to redeliver any or all of the Equipment to Lessor as provided below in Section 9.04. Such delivery shall take place within fifteen (15) days after the event of default occurs. If Lessee fails to deliver the Equipment, Lessor may enter the premises where the Equipment is located and take possession of the Equipment and charge Lessee for cost incurred. Notwithstanding that Lessor has taken possession of the Equipment, Lessee shall still be obligated to pay the remaining Rental Payments due up until the end of the then current Original Term or Renewal Term. Lessee will be liable for any damage to the Equipment caused by Lessee or its employees or agents.
- (c) Lessor may take whatever action at law or in equity that may appear necessary or desirable to enforce its rights. Lessee shall be responsible to Lessor for all costs incurred by Lessor in the enforcement of its rights under this Agreement including, but not limited to, reasonable attorney fees.

**Section 9.03. No Remedy Exclusive.** No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or shall be construed to be a waiver thereof.

**Section 9.04. Return of Equipment and Storage.**

- (a) **Surrender:** The Lessee shall, at its own expense, surrender the Equipment to the Lessor in the event of a default or a Non-appropriation by delivering the Equipment to the Lessor to a location accessible by common carrier and designated by Lessor. In the case that any of the Equipment consists of software, Lessee shall destroy all intangible items constituting such software and shall deliver to Lessor all tangible items constituting such software. At Lessor's request, Lessee shall also certify in a form acceptable to Lessor that Lessee has complied with the above software return provisions and that they will immediately cease using the software and that they shall permit Lessor and/or the vendor of the software to inspect Lessee's locations to verify compliance with the terms hereto.
- (b) **Delivery:** The Equipment shall be delivered to the location designated by the Lessor by a common carrier unless the Lessor agrees in writing that a common carrier is not needed. When the Equipment is delivered into the custody of a common carrier, the Lessee shall arrange for the shipping of the item and its insurance in transit in accordance with the Lessor's instructions and at the Lessee's sole expense. Lessee, at its expense, shall completely sever and disconnect the Equipment or its component parts from the Lessee's property all without liability to the Lessor. Lessee shall pack or crate the Equipment and all of the component parts of the Equipment carefully and in accordance with any recommendations of the manufacturer. The Lessee shall deliver to the Lessor the plans, specifications operation manuals or other warranties and documents furnished by the manufacturer or vendor on the Equipment and such other documents in the Lessee's possession relating to the maintenance and methods of operation of such Equipment.
- (c) **Condition:** When the Equipment is surrendered to the Lessor it shall be in the condition and repair required to be maintained under this Agreement. It will also meet all legal regulatory conditions necessary for the Lessor to sell or lease it to a third party and be free of all liens. If Lessor reasonably determines that the Equipment or an item of the Equipment, once it is returned, is not in the condition required hereby, Lessor may cause the repair, service, upgrade, modification or overhaul of the Equipment or an item of the Equipment to achieve such condition and upon demand, Lessee shall promptly reimburse Lessor for all amounts reasonably expended in connection with the foregoing.
- (d) **Storage:** Upon written request by the Lessor, the Lessee shall provide free storage for the Equipment or any item of the Equipment for a period not to exceed 60 days after the expiration of its lease term before returning it to the Lessor. The Lessee shall arrange for the insurance described to continue in full force and effect with respect to such item during its storage period and the Lessor shall reimburse the Lessee on demand for the incremental premium cost of providing such insurance.

**X. Miscellaneous**

**Section 10.01. Notices.** All notices shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at their respective places of business as first set forth herein or as the parties shall designate hereafter in writing.

**Section 10.02. Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon Lessee and Lessor and their respective successors and assigns.

**Section 10.03. Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 10.04. Amendments, Addenda, Changes or Modifications.** This Agreement may be amended, added to, changed or modified by written agreement duly executed by Lessor and Lessee.

**Section 10.05. Execution in Counterparts.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 10.06. Captions.** The captions or headings in this Agreement do not define, limit or describe the scope or intent of any provisions or sections of this Agreement.

**Section 10.07. Master Lease.** This Agreement can be utilized as a Master Lease Agreement. This means that the Lessor and the Lessee may agree to the lease of additional Equipment under this Agreement at some point in the future by executing one or more Additional Schedules to Exhibit A, Exhibit B, Exhibit C and Exhibit D as well as other exhibits or documents that may be required by Lessor. Additional Schedules will be consecutively numbered on each of the exhibits which make up the Additional Schedule and all the terms and conditions of the Agreement shall govern each Additional Schedule.

**Section 10.08. Entire Writing.** This Agreement constitutes the entire writing between Lessor and Lessee. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties, and then such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, representations, conditions, or warranties, express or implied, which are not specified herein regarding this Agreement or the Equipment leased hereunder. Any terms and conditions of any purchase order or other documents submitted by Lessee in connection with this Agreement which are in addition to or inconsistent with the terms and conditions of this Agreement will not be binding on Lessor and will not apply to this Agreement.

Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives listed below.

«LESSEENAME»

**KANSAS STATE BANK OF MANHATTAN**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name and Title

\_\_\_\_\_  
Typed Name and Title

**EXHIBIT A**

**DESCRIPTION OF EQUIPMENT**

**RE: Lease With Option to Purchase Agreement dated as of «LeaseDate», between Kansas State Bank of Manhattan (Lessor) and «LesseeName» (Lessee)**

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Below is a detailed description of all the items of Equipment including quantity, model number and serial number where applicable:

«EquipmentDescription»

SAMPLE

Physical Address of Equipment after Delivery: \_\_\_\_\_

EXHIBIT B

PAYMENT SCHEDULE

RE: Lease With Option to Purchase Agreement dated as of «LeaseDate», between Kansas State Bank of Manhattan (Lessor) and «LesseeName» (Lessee)

Date of First Payment: «DateOfFirstPayment»
Total Number of Payments: «TotalNumberOfPayments»
Number of Payments Per Year: «NumberOfPaymentsPerYear»

«LesseeName»

Signature

Typed Name and Title

SAMPLE

\*Assumes all Rental Payments due to date are paid

EXHIBIT C

CERTIFICATE OF ACCEPTANCE

**RE: Lease With Option to Purchase Agreement dated as of «LeaseDate», between Kansas State Bank of Manhattan (Lessor) and «LesseeName» (Lessee)**

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I, the undersigned, hereby certify that I am a duly qualified representative of Lessee and that I have been given the authority by the governing body of Lessee to sign this Certificate of Acceptance with respect to the above referenced Agreement. I hereby certify that:

1. The Equipment described on Exhibit A has been delivered and installed in accordance with Lessee's specifications.
2. Lessee has conducted such inspection and/or testing of the Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes.
3. Lessee has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments required to be paid under the Agreement during the current Budget Year of Lessee, and such moneys will be applied in payment of all Rental Payments due and payable during such current Budget Year.
4. Lessee has obtained insurance coverage as required under the Agreement from an insurer qualified to do business in the State.
5. No event or condition that constitutes or would constitute an Event of Default exists as of the date hereof.
6. The governing body of Lessee has approved the authorization, execution, and delivery of this Agreement on its behalf by the authorized representative of Lessee who signed the Agreement.

**«LesseeName»**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name and Title

EXHIBIT D

LESSEE RESOLUTION

RE: Lease With Option to Purchase Agreement dated as of «LeaseDate», between Kansas State Bank of Manhattan (Lessor) and «LesseeName» (Lessee)

At a duly called meeting of the Governing Body of the Lessee (as defined in the Agreement) held on \_\_\_\_\_ the following resolution was introduced and adopted:

BE IT RESOLVED by the Governing Body of Lessee as follows:

- 1. Determination of Need. The Governing Body of Lessee has determined that a true and very real need exists for the acquisition of the Equipment described on Exhibit A of the Lease With Option to Purchase Agreement dated as of «LeaseDate», between «LesseeName» (Lessee) and Kansas State Bank of Manhattan (Lessor).
2. Approval and Authorization. The Governing Body of Lessee has determined that the Agreement, substantially in the form presented to this meeting, is in the best interests of the Lessee for the acquisition of such Equipment, and the Governing Body hereby approves the entering into of the Agreement by the Lessee and hereby designates and authorizes the following person(s) to execute and deliver the Agreement on Lessee's behalf with such changes thereto as such person(s) deem(s) appropriate, and any related documents, including any Escrow Agreement, necessary to the consummation of the transaction contemplated by the Agreement.

Authorized Individual(s): \_\_\_\_\_ (Printed or Typed Name and Title of individual(s) authorized to execute the Agreement)

- 3. Adoption of Resolution. The signatures below from the designated individuals from the Governing Body of the Lessee evidence the adoption by the Governing Body of this Resolution.

Signature: \_\_\_\_\_ (Signature of Secretary, Board Chairman or other member of the Governing Body)

Typed Name & Title \_\_\_\_\_ (Typed Name and Title of individual who signed directly above)

Attested By: \_\_\_\_\_ (Signature of one additional person who can witness the passage of this Resolution)

Typed Name & Title: \_\_\_\_\_ (Typed name of individual who signed directly above)

EXHIBIT E

OFFICERS CERTIFICATE

RE: Lease With Option to Purchase Agreement dated as of «LeaseDate», between Kansas State Bank of Manhattan (Lessor) and «LesseeName» (Lessee)

I, the undersigned, hereby certify that I am a duly qualified representative of Lessee and that I have been given the authority by the governing body of Lessee to sign this Officers Certificate with respect to the above referenced Agreement. I hereby certify that:

- 1. Lessee has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments required to be paid under the Agreement during the current Budget Year of Lessee, and such moneys will be applied in payment of all Rental Payments due and payable during such current Budget Year.
2. Lessee has obtained insurance coverage as required under the Agreement from an insurer qualified to do business in the State.
3. No event or condition that constitutes or would constitute an Event of Default exists as of the date hereof.
4. The governing body of Lessee has approved the authorization, execution and delivery of this Agreement on its behalf by the authorized representative of Lessee who signed the Agreement.
5. Please list the Source of Funds (Fund Item in Budget) for the Rental Payments that come due under Exhibit B of this Agreement.

«SourceOfFunds» [SAMPLE]

If the above Source of Funds is solely a grant type fund, then the Lessee, by signing below, hereby authorizes the General Fund of the Lessee as a backup source of funds from which the Rental Payments can be made.

«LesseeName»

Signature

Typed Name and Title

## OPINION OF COUNSEL

**(Must be re-typed onto attorney's letterhead)**

(Date, must be on or after the meeting date listed on Exhibit D, Lessee Resolution)

Kansas State Bank of Manhattan  
1010 Westloop, P.O. Box 69  
Manhattan, Kansas 66505-0069

**RE: Lease With Option To Purchase Agreement/Escrow Agreement dated as of «LeaseDate», between Kansas State Bank of Manhattan (Lessor) and the «LesseeName» (Lessee)**

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Ladies and Gentlemen:

As counsel to Lessee I have reviewed the Lease With Option To Purchase Agreement and the Escrow Agreement (collectively the "Agreements") both dated «LeaseDate». Based on my knowledge as counsel for Lessee, and upon my review of the Agreements, I am of the opinion that:

1. Lessee is a political subdivision of the State of «LesseeState», or a constituted authority authorized to issue obligations on behalf of a political subdivision of the State.
2. Lessee has the requisite power and authority to purchase the Equipment and to execute and deliver the Agreements and to perform its obligations under the Agreements. The Agreements and the other documents either attached hereto or required herein have been duly authorized, approved and executed by and on behalf of Lessee, and the Agreements are a legal, valid and binding obligation of Lessee enforceable in accordance with its terms.
3. The authorization, approval and execution of the Agreements and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state and federal laws.
4. There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body that challenges the authority of the Lessee or any of the Lessee's officers or employees to enter into the Agreements.
5. The above opinion is for the sole benefit of the Lessor listed above and can only be relied upon by the Lessor or any permitted assignee or subassignee or successor of Lessor under the Agreements.

(Signature of Counsel for «LesseeName»)

**BANK QUALIFIED CERTIFICATE**

**RE: Lease With Option to Purchase Agreement dated as of «LeaseDate», between Kansas State Bank of Manhattan (Lessor) and «LesseeName» (Lessee)**

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Whereas, Lessee hereby represents that it is a "Bank Qualified" Issuer for the calendar year in which this Agreement is executed by making the following designations with respect to Section 265 of the Internal Revenue Code. (A "Bank Qualified Issuer" is an issuer that issues less than thirty million (\$30,000,000) dollars of tax-exempt obligations during the calendar year).

Now, therefor, Lessee hereby designates this Agreement as follows:

- 1. Designation as Qualified Tax-Exempt Obligation.** Pursuant to Section 265(b)(3)(B)(i) of the Internal Revenue Code of 1986 as amended (the "Code"), the Lessee hereby specifically designates the Agreement as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. In compliance with Section 265(b)(3)(D) of the Code, the Lessee hereby represents that the Lessee will not designate more than \$30,000,000 of obligations issued by the Lessee in the calendar year during which the Agreement is executed and delivered as such "qualified tax-exempt obligations".
- 2. Issuance Limitation.** In compliance with the requirements of Section 265(b)(3)(C) of the Code, the Lessee hereby represents that the Lessee (including all subordinate entities of the Lessee within the meaning of Section 265(b)(3)(E) of the Code) reasonably anticipates not to issue in the calendar year during which the Agreement is executed and delivered, obligations bearing interest exempt from federal income taxation under Section 103 of the Code (other than "private activity bonds" as defined in Section 141 of the Code) in an amount greater than \$30,000,000.

**«LesseeName»**

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Signature

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Typed Name and Title

ARBITRAGE AND TAX CERTIFICATE

RE: Lease With Option to Purchase Agreement dated as of «LeaseDate» between Kansas State Bank of Manhattan (Lessor) and «LesseeName» (Lessee)

I, the undersigned, hereby certify that I am a duly qualified representative of Lessee and that I have been given the authority by the Governing Body of Lessee to sign the above referenced Agreement and this Arbitrage and Tax Certificate with respect thereto. This Certificate is being issued pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and Treasury Regulations, Sections 1.103-13, 1.103-14 and 1.103-15 (the "Regulations"). The following facts, estimates and circumstances are in existence on the date of this Certificate or are reasonably expected to occur hereafter.

- 1. The Agreement provides for the lease of certain Equipment (the "Equipment") described on Exhibit A thereto from Lessor to Lessee and the lease of the Equipment by Lessee from Lessor. Pursuant to the Agreement, Lessee is required to make Rental Payments with respect to the Equipment, comprising principal and interest, on the dates and in the amounts set forth in Exhibit B to the Agreement.
2. Pursuant to the Agreement and for the purpose of meeting its obligations thereunder and assuring Lessee of the availability of moneys needed to pay the cost of the Equipment when due, Lessee, Lessor and Kansas State Bank of Manhattan as Escrow Agent ("Escrow Agent") have executed an Escrow Agreement dated as of «LeaseDate», (the "Escrow Agreement").
3. The Escrow Agreement provides that Lessor shall deposit \$«AmountToEscrow» into escrow, to be credited to the Equipment Acquisition Fund created by the Escrow Agreement and held, invested and disbursed with respect to the Equipment as provided therein.
4. Lessee and Vendor have entered into a contract for the acquisition and delivery of the Equipment.
5. The Equipment will be acquired and installed with due diligence and, based upon the provisions of the contract described in paragraph 4 hereof, the Equipment will be acquired and installed on or before «ArbitrageDate». It is expected that all gross proceeds of the Agreement will be expended on the Equipment no later than this date.
6. All of the spendable proceeds of the Agreement will be expended on the Equipment and related expenses within three years from the date of execution of the Agreement and Escrow Agreement.
7. The original proceeds of the Agreement, and the interest to be earned thereon, do not exceed the amount necessary for the purpose for which the Agreement is issued.
8. The interest of Lessee in the Equipment has not been and is not expected during the term of the Agreement to be sold or disposed of by Lessee.
9. No sinking fund is expected to be created by Lessee with respect to the Agreement and Rental Payments.
10. The Lessee hereby covenants to take all action necessary under the Code and Regulations to ensure that the interest component of the Rental Payments does not become includable as gross income of the recipient for Federal Income Tax purposes, including, without limitation, complying with all requirements of the Code and Regulations relating to the Rebate of Arbitrage profit to the United States of America. It is not presently expected that Lessee will earn arbitrage profit on amounts deposited in the Equipment Acquisition Fund.
11. To the best of the knowledge and belief of the undersigned, the expectations of Lessee, as set forth above, are reasonable; and there are no present facts, estimates and circumstances which would change the foregoing expectations.

WITNESS My hand this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

«LesseeName»

Signature

Typed Name and Title

# ESCROW AGREEMENT

**THIS AGREEMENT**, made and entered into as of «LeaseDate», by and among Kansas State Bank of Manhattan, (Hereinafter referred to as the Escrow Agent), Kansas State Bank of Manhattan, a corporation duly organized and existing under the laws of the State of Kansas (Hereinafter referred to as the Lessor), and the «LesseeName», a political subdivision of the State of «LesseeState» (Hereinafter referred to as the Lessee):

**WITNESSETH THAT**, in the joint and mutual exercise of their powers, and in consideration of the mutual covenants herein contained, the parties hereto recite and agree as follows:

## **Section 1. Recitals.**

1.01. Lessor and Lessee have entered into a Lease With Option to Purchase Agreement dated as of «LeaseDate», (Hereinafter referred to as the Lease), a duplicate original of which has been furnished to the Escrow Agent, whereby Lessor has agreed to lease and sell certain personal property described therein (Hereinafter referred to as the Equipment) to Lessee, and Lessee has agreed to lease and purchase the Equipment from Lessor, in the manner and on the terms set forth in the Lease.

1.02. This Agreement is not intended to alter or change in any way the rights and obligations of Lessor and Lessee under the Lease, but is entirely supplemental thereto.

1.03. The terms capitalized in this Agreement but not defined herein shall have the meanings given to them in the Lease.

1.04. Under Section 2.02 of the Lease, Lessor is required to deposit or cause to be deposited with the Escrow Agent the principal amount listed in that section, which is required to be credited to the Equipment Acquisition Fund established in Section 2 hereof and used to pay the Equipment Cost of the items of Equipment, and, to the extent not needed for this purpose, is required to be repaid to Lessor. Unless otherwise agreed to by the parties, the principal amount remaining in the Equipment Acquisition Fund will be used to reduce the outstanding principal amount of the lease.

1.05. Under the Lease, either Lessor or Lessee will cause each item of Equipment to be ordered by the Contractor therefor. The Equipment Cost to be paid to the Contractor supplying the item of Equipment shall be paid solely from the amount deposited with the Escrow Agent as described in Section 1.04 hereof, in accordance with this Agreement.

1.06. Subject to such control by Lessee as is provided for herein, Lessor and Lessee agree to employ the Escrow Agent to receive, hold, invest and disburse the money to be paid to the Escrow Agent by Lessor as described in Section 1.04, all as hereinafter provided; however, the Escrow Agent shall not be obligated to assume or perform any obligation of Lessee or Lessor or any Contractor with respect thereto or under the Lease by reason of anything contained in this Agreement.

1.07. Each of the parties has authority to enter into this Agreement, and has taken all actions necessary to authorize the execution of this Agreement by the officers whose signature are affixed hereto.

## **Section 2. Equipment Acquisition Fund.**

2.01. The Escrow Agent shall establish a special escrow fund designated as the "Equipment Acquisition Fund" (the Equipment Acquisition Fund), shall keep such Fund separate and apart from all other funds and moneys held by it, and shall administer such Fund as provided in this Section 3 hereof.

2.02. All moneys paid to the Escrow Agent by Lessor pursuant to Section 1.04 of this Agreement shall be credited to the Equipment Acquisition Fund. The Escrow Agent shall use the moneys in the Equipment Acquisition Fund to pay the Equipment Cost of each item of Equipment subject to the Lease, upon receipt with respect thereto of a Payment Request Form attached hereto as Exhibit A, executed by Lessee, fully completed and with all supporting documents described therein attached hereto. Upon receipt of a Payment Request Form with respect to any item of Equipment, an amount equal to the Equipment Cost as shown therein shall be paid directly to the person or entity entitled to payment as specified therein. The Payment Request form must be signed by an authorized individual acting on behalf of Lessee. The authorized individual or individuals designated by the Lessee must sign the Payment Request Form Signature Card which will be kept in the possession of the Escrow Agent. Each Payment Request Form will be checked against this Signature Card by the Escrow Agent. The Lessor may elect to independently verify the representations of the Lessee on the Payment Request Form. If the Lessor does not make such election then the Escrow Agent is allowed to rely on such signatures and such statements as provided for herein.

2.03. Lessee shall furnish to the Escrow Agent as soon as available, a copy of the order for all Equipment ordered pursuant to the Lease, showing the Equipment Cost and the estimated delivery date. If funds remain in the Equipment Acquisition Fund, excluding the principal amount referred to in Section 1.04 above and the accrued interest earned in the Equipment Acquisition Fund up to the amount equal to the sum of the draws listed in Section 2.06 below, after the full delivery and acceptance of the Equipment, then the Escrow Agent shall return the accrued interest to the Lessee either by check or by applying the amount to the next payment.

2.04. The Escrow Agent shall only be responsible for the safekeeping and investment of the moneys held in the Equipment Acquisition Fund, and the disbursement thereof in accordance with this Section, and shall not be responsible for the authenticity or accuracy of such certifications or documents, the application of amounts paid pursuant to such certifications by the persons or entities to which they are paid, or the sufficiency of the moneys credited to the Equipment Acquisition Fund to make the payments herein required.

2.05. If Lessor delivers to the Escrow Agent written notice of the occurrence of an Event of Default under the Lease or of a termination of the Lease due to a non-appropriation event or non-renewal event under the Lease, then the Escrow Agent shall immediately remit to Lessor the remaining balance of the Equipment Acquisition Fund.

2.06. Lessor and Lessee hereby agree that the Escrow Agent is authorized to release funds from the Equipment Acquisition Fund as described in this section only after such funds have remained in the Equipment Acquisition Fund for the time periods and in the amounts specified below:  
«EscrowDrawSchedule»

2.07. Prior to the disbursement of any funds from the Escrow Account, the Lessee must either (1) deposit all the down payment funds that the Lessee has committed towards the purchase of the Equipment into the Escrow Account or (2) Lessee must provide written verification to the satisfaction of both the Lessor and Escrow Agent that all the down payment funds Lessee has committed towards the purchase of the Equipment have already been spent or are simultaneously being spent with the funds requested from the initial Payment Request Form. For purposes of this Section, the down payment funds committed towards the Equipment from the Lessee are the down payment funds that were represented to the Lessor at the time this transaction was submitted for credit approval by the Lessee to the Lessor.

## **Section 3. Moneys in Equipment Acquisition Fund: Investment.**

3.01. The moneys and investments held by the Escrow Agent under this Agreement are irrevocably held in trust for the benefit of Lessee and Lessor, and such moneys, together with any income or interest earned thereon, shall be expended only as provided in this Agreement, and shall not be subject to levy or attachment of lien by or for the benefit of any creditor of either Lessee or Lessor.

3.02. Moneys held by Escrow Agent hereunder shall be invested and reinvested by the Escrow Agent upon order of Lessee only in Qualified Investments, which Qualified Investments include any investment from time to time authorized by law for the investment of moneys. The Escrow Agent may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section. Such investments and reinvestments shall be made giving full consideration for the time at which funds are required to be available. No investment shall be made that would cause the Agreement to be deemed an "arbitrage bond" within the meaning of Section 148(a) of the Internal Revenue Code of 1986, as amended.

3.03. The Escrow Agent shall, without further direction from Lessee, sell such investments as and when required to make any payment from the Equipment Acquisition Fund. Any income received on such investments shall be credited to the Fund.

3.04. The Escrow Agent shall, upon written request, furnish to Lessee and Lessor, an accounting of all investments. The Escrow Agent shall not be responsible or liable for any loss suffered in connection with any investment moneys made by it in accordance with this Section.

## **Section 4. Escrow Agent's Authority: Indemnification.**

4.01. The Escrow Agent may act in reliance upon any writing or instrument including, without limitation, the Payment Request Form or signature which is, in good faith, believed to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions hereof has been duly authorized to do so. The Escrow Agent shall not be liable in any manner for the sufficiency for correctness as to form, manner and execution, or validity of any

instrument deposited with it, nor as to the identity, authority or right of any person executing the same; and its duties hereunder shall be limited to those specifically provided herein.

4.02. Unless the Escrow Agent is guilty of willful misconduct with regard to its duties hereunder, Lessee and Lessor jointly and severally hereby agree to indemnify the Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Agreement; and in connection therewith, to indemnify the Escrow Agent against any and all expenses, including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim. The Escrow Agent shall be vested with a lien on all property deposited hereunder, for indemnification, for reasonable attorneys' fees, court costs, for any suit, interpleader or otherwise, or any other expense, fees or charges of any character or nature, which may be incurred by the Escrow Agent by reason of disputes arising between Lessee and Lessor as to the correct interpretation of the Lease or this Agreement and instruction given to the Escrow Agent hereunder, or otherwise, with the right of the Escrow Agent, regardless of the instructions aforesaid, to hold the said property until and unless said additional expenses, fees and charges shall be fully paid.

4.03. If Lessee and Lessor shall be in disagreement about the interpretation of the Lease or this Agreement, or about the rights and obligations, or the propriety of any action contemplated by the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action to resolve the disagreement. The Escrow Agent shall be indemnified for all costs, including reasonable attorneys' fees, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under this Agreement until a final judgment in such action is received.

4.04. The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. The Escrow Agent shall otherwise not be liable for any mistakes or facts or errors of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct.

**Section 5. Escrow Agent's Compensation.**

Lessee hereby agrees to pay the Escrow Agent \$ 200.00 as compensation for the services to be rendered hereunder, and will pay and/or reimburse the Escrow Agent upon request for all expenses, disbursements and advances, including reasonable attorneys' fees, incurred or made by it in connection with carrying out its duties hereunder. The first twenty disbursements made from the Equipment Acquisition Fund shall be made without cost to the Lessee. There will be a \$25 fee assessed to the Lessee debited from the Equipment Acquisition Fund for each additional disbursement made thereafter. The Escrow Agent's fee shall be payable upon execution of this Agreement.

**Section 6. Change of Escrow Agent.**

6.01. A national banking association located in the State of Kansas, or a state bank organized under the laws of the State of Kansas, qualified as a depository of public funds, may be substituted to act as Escrow Agent under this Agreement, upon agreement of the parties hereto. Such substitution shall not be deemed to affect the rights or obligations of the parties. Upon any such substitution, the Escrow Agent agrees to assign to such substitute Escrow Agent its rights under this Agreement.

6.02. The Escrow Agent or any successor may at any time resign by giving mailed notice to Lessee and Lessor of its intention to resign and of the proposed date of resignation, which shall be a date not less than thirty (30) days after such notice is deposited in the United States mail with postage fully prepaid, unless an earlier resignation date and appointment of a successor Escrow Agent shall have been or are approved by Lessee and Lessor.

6.03. The Escrow Agent may appoint an agent to exercise any of the powers, rights or remedies granted to the Escrow Agent under this Agreement, and to hold title to property or to take any other action which may be desirable or necessary.

**Section 7. Administrative Provisions.**

7.01. The Escrow Agent shall keep complete and accurate records of all moneys received and disbursed under this Agreement, which shall be available for inspection by Lessee or Lessor, or the agent of either of them at any time during regular business hours.

7.02. All written notices to be given under this Agreement shall be given by mail to the party entitled thereto at this address set forth in the attached Exhibit B or at such address as the party may provide to the other parties hereto in writing from time to time. Any such notice shall be deemed to have been received forty-eight (48) hours after deposit in the United States mail in registered form, with postage fully prepaid.

7.03. This Agreement shall be construed and governed in accordance with the laws of the State of Kansas.

7.04. Any provision of this Agreement found to be prohibited by law shall be ineffective only to the extent of such prohibition, and shall not invalidate the remainder of this Agreement.

7.05. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. The term "Lessor" as used herein means any person or entity to whom Lessor has assigned its right to receive Rental Payments under the Lease and any payments due to Lessor hereunder from and after the date when a duplicate original of such assignment is filed with the Escrow Agent.

7.06. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.

7.07. This Agreement shall terminate upon disbursement by the Escrow Agent of all moneys held by it hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

**Kansas State Bank of Manhattan, Escrow Agent      Kansas State Bank of Manhattan, Lessor**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name and Title

\_\_\_\_\_  
Typed Name and Title

«LesseeName», Lessee

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name and Title

**EXHIBIT A**  
**PAYMENT REQUEST FORM**

Kansas State Bank of Manhattan, Escrow Agent under an Escrow Agreement dated as of «LeaseDate», by and among the said Escrow Agent, Kansas State Bank of Manhattan, (Lessor), and the «LesseeName», (Lessee) is hereby requested to pay, from the Equipment Acquisition Fund held under said Escrow Agreement, to the persons, firms or corporation designated below as payee, the amount set forth opposite each such person's firm's or corporation's name, in payment of the Equipment Cost (as defined in said Escrow Agreement) of the Equipment described on the attached page(s) designated opposite such Payee's name and account.

Payee	Amount	Equipment

**VOID**

**TO BE UTILIZED AS A SIGNATURE CARD ONLY**  
**According to Section 2.02 of the Escrow Agreement**

By executing this Payment Request Form the Lessee hereby represents that the Payee or Payees listed above who are requesting payment have delivered the Equipment or a portion of the Equipment or performed the services to the satisfaction of the Lessee and that the amounts requested above by the Payee or Payees are proportionate with the value of the Equipment delivered or services rendered by the Payee or Payees.

**Partial Disbursement.** The undersigned certifies that the following documents are attached to this Payment Request Form when there is a request for a partial release of funds from the Escrow Account to pay for a portion of the Equipment: (1) Invoice from the Vendor, (2) copy of the agreement between Lessee and Vendor (if requested by the Lessor or Escrow Agent), (3) front and back copy of the original MSO/Title (if payment from Escrow Account is for a chassis) listing Kansas State Bank and/or its assigns as the first lien holder. By executing this Payment Request Form and attaching the documents as required above, the Lessee shall be deemed to have accepted this portion of the Equipment for all purposes under the Lease, including, without limitation, the obligation of Lessee to make the Rental Payments with respect thereto in a proportionate amount of the total Rental Payment. By executing this Payment Request Form Lessee agrees that Lessee is the title owner to this portion of the Equipment and that in the event that any third party makes a claim to such title that Lessee will take all measures necessary to secure title including, without limitation, the appropriation of additional funds to secure title to this portion of the Equipment and keep the Lease in full force and effect.

**Final Disbursement.** The undersigned certifies that the following documents are attached to this Payment Request Form when there is a final release of funds from the Escrow Account: (1) Final Vendor Invoice, (2) Signed Acceptance Exhibit C of the Lease, (3) Insurance Certificate, (4) front and back copy of the original MSO/Title listing Kansas State Bank and/or its assigns as first lien holder (if not already received). By executing this Payment Request Form and attaching the documents as required above, the Lessee shall be deemed to have accepted the Equipment for all purposes under the Lease, including, without limitation, the obligation of Lessee to make the Rental Payments with respect thereto. By executing this Payment Request Form Lessee certifies that Lessee is the title owner to the Equipment and that in the event that any third party makes a claim to such title that Lessee will take all measures necessary to secure title including, without limitation, the appropriation of additional funds to secure title to the Equipment and keep the Lease in full force and effect.

«LesseeName»

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name and Title

**Signature of additional authorized individual (optional) of Lessee**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name and Title

EXHIBIT A

PAYMENT REQUEST FORM

Kansas State Bank of Manhattan, Escrow Agent under an Escrow Agreement dated as of «LeaseDate», by and among the said Escrow Agent, Kansas State Bank of Manhattan, (Lessor), and the «LesseeName», (Lessee) is hereby requested to pay, from the Equipment Acquisition Fund held under said Escrow Agreement, to the persons, firms or corporation designated below as payee, the amount set forth opposite each such person's firm's or corporation's name, in payment of the Equipment Cost (as defined in said Escrow Agreement) of the Equipment described on the attached page(s) designated opposite such Payee's name and account.

Table with 3 columns: Payee, Amount, Equipment. The table is currently empty.

SAMPLE

By executing this Payment Request Form the Lessee hereby represents that the Payee or Payees listed above who are requesting payment have delivered the Equipment or a portion of the Equipment or performed the services to the satisfaction of the Lessee and that the amounts requested above by the Payee or Payees are proportionate with the value of the Equipment delivered or services rendered by the Payee or Payees.

Partial Disbursement. The undersigned certifies that the following documents are attached to this Payment Request Form when there is a request for a partial release of funds from the Escrow Account to pay for a portion of the Equipment: (1) Invoice from the Vendor, (2) copy of the agreement between Lessee and Vendor (if requested by the Lessor or Escrow Agent), (3) front and back copy of the original MSO/Title (if payment from Escrow Account is for a chassis) listing Kansas State Bank and/or its assigns as the first lien holder. By executing this Payment Request Form and attaching the documents as required above, the Lessee shall be deemed to have accepted this portion of the Equipment for all purposes under the Lease, including, without limitation, the obligation of Lessee to make the Rental Payments with respect thereto in a proportionate amount of the total Rental Payment. By executing this Payment Request Form Lessee agrees that Lessee is the title owner to this portion of the Equipment and that in the event that any third party makes a claim to such title that Lessee will take all measures necessary to secure title including, without limitation, the appropriation of additional funds to secure title to this portion of the Equipment and keep the Lease in full force and effect.

Final Disbursement. The undersigned certifies that the following documents are attached to this Payment Request Form when there is a final release of funds from the Escrow Account: (1) Final Vendor Invoice, (2) Signed Acceptance Exhibit C of the Lease, (3) Insurance Certificate, (4) front and back copy of the original MSO/Title listing Kansas State Bank and/or its assigns as first lien holder (if not already received). By executing this Payment Request Form and attaching the documents as required above, the Lessee shall be deemed to have accepted the Equipment for all purposes under the Lease, including, without limitation, the obligation of Lessee to make the Rental Payments with respect thereto. By executing this Payment Request Form Lessee certifies that Lessee is the title owner to the Equipment and that in the event that any third party makes a claim to such title that Lessee will take all measures necessary to secure title including, without limitation, the appropriation of additional funds to secure title to the Equipment and keep the Lease in full force and effect.

«LesseeName»

Signature

Typed Name and Title

**EXHIBIT B**

Kansas State Bank of Manhattan, Escrow Agent

1010 Westloop, P.O. Box 69

Manhattan, Kansas 66505-0069

Kansas State Bank of Manhattan, Lessor

1010 Westloop, P.O. Box 69

Manhattan, Kansas 66505-0069

SAMPLE

«LesseeName», Lessee

«LesseeAddress»

«LesseeCityStateZip»

**LESSEE ACKNOWLEDGEMENT**

**RE: Lease With Option to Purchase Agreement dated as of «LeaseDate», between Kansas State Bank of Manhattan (Lessor) and «LesseeName» (Lessee)**

---

Lessee hereby acknowledges that it has ordered or caused to be ordered the equipment that is the subject of the above-mentioned Agreement.

Please complete the below information, attach another page if necessary...

Vendor Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Equipment: \_\_\_\_\_

Amount of Equipment: \_\_\_\_\_

**SAMPLE**

Vendor Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Equipment: \_\_\_\_\_

Amount of Equipment: \_\_\_\_\_

Vendor Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Equipment: \_\_\_\_\_

Amount of Equipment: \_\_\_\_\_

**Lessee will immediately notify Lessor if any of the information listed above is changed.**

# INSURANCE REQUIREMENTS

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Pursuant to Article V in the Lease With Option to Purchase Agreement, you have agreed to provide us evidence of insurance covering the property in the Agreement. A Certificate of Insurance naming all insured parties and coverages must be returned to us as soon as possible, but no later than the date on which delivery of equipment occurs. **If you have not taken possession of the equipment, please complete the Insurance Memo included with the documentation.**

In the case of self-insurance, the amounts of liability and physical damage coverage are to be listed on some form of certificate supplied by you. In addition, information regarding the nature of your self-insurance program should also be forwarded to us as soon as possible.

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## INSURANCE REQUIREMENTS BY KANSAS STATE BANK OF MANHATTAN:

1. **LIABILITY**

- *Minimum of \$1,000,000.00 combined single-limit on bodily injury and property damage.*
- *Kansas State Bank and/or Its Assigns **MUST** be listed as additional insured and loss payee.*

2. **PHYSICAL DAMAGE**

- *All risk coverage to guarantee proceeds sufficient to pay the applicable Purchase Option Price as set forth in Exhibit B of the Agreement. Kansas State Bank and/or Its Assigns **MUST** be listed as additional insured and loss payee.*
- *The deductible amount on the insurance policy should not exceed \$«InsuranceDeductibleAmount».*

3. **ENDORSEMENT**

- *Lessor will receive at least thirty (30) days written notice from Insurer prior to alteration, cancellation or reduction of insurance coverage.*

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**PLEASE FAX THE CERTIFICATE TO US AS SOON AS POSSIBLE AT (785) 537-4806, AND MAIL THE ORIGINAL TO:**

Kansas State Bank and/or Its Assigns  
P.O. Box 69, 1010 Westloop  
Manhattan, Kansas 66505-0069

**YOUR ASSISTANCE IS GREATLY APPRECIATED TO COMPLETE THIS TRANSACTION, IF YOU HAVE ANY QUESTIONS, PLEASE GIVE US A CALL AT (800) 752-3562.**

---

«LesseeName»

Insurance Company: \_\_\_\_\_

Agent's Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Address: \_\_\_\_\_

**Information Return for Tax-Exempt Governmental Obligations**  
 > Under Internal Revenue Code section 149(e)  
 > See separate instructions

OMB No. 1545-0720

*(Caution: Use Form 8038-GC if the issue price is under \$100,000.)*

**Part I Reporting Authority**

If Amended Return, check here

1. Issuer's name «LesseeName»		2. Issuer's employer identification number	
3. Number and street (or PO Box if mail is not delivered to street address) «LesseeAddress»		Room/Suite	4. Report number 3 -
5. City, town, or post office, state, and ZIP code «LesseeCityStateZip»		6. Date of issue	
7. Name of issue Lease with Option to Purchase Agreement		8. CUSIP number	
9. Name and title of officer or legal representative whom the IRS may call for more information		10. Telephone no. of officer or legal representative	

**Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule**

11. <input type="checkbox"/> Education	11
12. <input type="checkbox"/> Health and hospital	12
13. <input type="checkbox"/> Transportation	13
14. <input type="checkbox"/> Public safety	14
15. <input type="checkbox"/> Environment (including sewage bonds)	15
16. <input type="checkbox"/> Housing	16
17. <input type="checkbox"/> Utilities	17
18. <input type="checkbox"/> Other, Describe >	18
19. If obligations are TANs or RANs, check box > <input type="checkbox"/> If obligations are BANs, check box > <input type="checkbox"/>	
20. If obligations are in the form of a lease or installment sale, check box > <input type="checkbox"/>	

**Part III Description of Obligations (Complete for the entire issue for which this form is being filed.)**

21. (a) Final Maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted avg. maturity	(e) Yield
	\$	\$	years	%

**Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)**

22. Proceeds used for accrued interest	22
23. Issue price of entire issue (enter amount from line 21, column (b))	23
24. Proceeds used for bond issuance costs (including underwriters' discount)	24
25. Proceeds used for credit enhancement	25
26. Proceeds allocated to reasonably required reserve or replacement fund	26
27. Proceeds used to currently refund prior issues	27
28. Proceeds used to advance refund prior issues	28
29. Total (add lines 24 through 28)	29
30. Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30

**Part V Description of Refunded Bonds (complete this part only for refunding bonds)**

31. Enter the remaining weighted average maturity of the bonds to be currently refunded	>	_____ years
32. Enter the remaining weighted average maturity of the bonds to be advance refunded	>	_____ years
33. Enter the last date on which the refunded bonds will be called	>	_____
34. Enter the date(s) the refunded bonds were issued	>	_____

**Part VI Miscellaneous**

35. Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35
36 a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a
b Enter the final maturity date of the guaranteed investment contract >	
37. Pooled financings: (a) Proceeds of this issue that are to be used to make loans to other governmental units	37a
b If this issue is a loan made from the proceeds of another tax-exempt issue, check box > <input type="checkbox"/> and enter the name of the issuer	
> _____ and the date of the issue >	
38. If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception, check box	> <input type="checkbox"/>
39. If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box	> <input type="checkbox"/>
40. If the issuer has identified a hedge, check box	> <input type="checkbox"/>

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and, to the best of my knowledge and belief, they are true, correct, and complete.

**Please Sign Here**

\_\_\_\_\_  
 Signature of issuer's authorized representative

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Type or print name and title